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(Witness excused)

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I N D E X

Of

EXHIBITS

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3340		3838	Comparative Table of Naval Vessels (on hand) Between the United States of America and Japan as of 7 December 1941		38098
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3339		3838-D	Affidavit of Albert B. Ray, Production Analyst in Charge of the Ships Statistics Section of the Bureau of Ships of the U. S. Navy Department, Washing- ton, D.C.		38108



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1 Friday, 23 January 1948

2 - - -

3  
4 INTERNATIONAL MILITARY TRIBUNAL  
5 FOR THE FAR EAST  
6 Court House of the Tribunal  
7 War Ministry Building  
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,  
10 at 0930.

11 Appearances:

12 For the Tribunal, all Members sitting, with  
13 the exception of: HONORABLE JUSTICE JU-AO MEI,  
14 Member from the Republic of China and HONORABLE  
15 JUSTICE E. STUART McDOUGALL, Member from the Dominion  
16 of Canada, not sitting from 0930 to 1600; HONORABLE  
17 JUSTICE R. B. PAL, Member from India, not sitting  
18 from 1500 to 1600.

19 For the Prosecution Section, same as before.

20 For the Defense Section, same as before.

21 - - -

22 (English to Japanese and Japanese  
23 to English interpretation was made by the  
24 Language Section, IMTFE.)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present  
4 except SHIRATORI who is represented by counsel. The  
5 prison surgeon at Sugamo certifies that he is ill and  
6 unable to attend the trial today. The certificate will  
7 be recorded and filed.

8 Captain Kraft.

9 LANGUAGE ARBITER (Captain Kraft): If the  
10 Tribunal please, the following language correction is  
11 submitted: reference, record page 30,653, line 2,  
12 delete "possible" and substitute "impossible."

13 THE PRESIDENT: Captain Robinson.

14 CAPTAIN ROBINSON: Mr. President and Members of  
15 the Tribunal, prosecution rebuttal evidence, order list  
16 No. 10, is now presented.

17 IPS document 3300, exhibit 3569 for identifi-  
18 cation, is offered.

19 THE PRESIDENT: What is it about?

20 (Mr. Brannon approached the lectern.)

21 Mr. Brannon, your objection comes rather early.  
22 What is this about?

23 MR. BRANNON: Didn't he offer it in evidence?

24 THE PRESIDENT: Just. He did not tell us the  
25 purpose.



1 CAPTAIN ROBINSON: This document, in direct  
2 quotations, presents the words of the defendant SHIMADA  
3 in an official statement. It was made by SHIMADA at the  
4 Navy Minister's official residence on 15 September 1941  
5 upon SHIMADA's return to Tokyo from China and followed  
6 his audience with the Emperor, which has been described  
7 in exhibit 3560.

8 On cross-examination SHIMADA was confronted with  
9 the document, transcript 34,742 to -44. He answered all  
10 questions in the negative or by denying recollection.  
11 The document rebuts SHIMADA's denials and his testimony  
12 that he favored peace and diplomacy, rather than  
13 aggressive war.

14 The importance of the document is in showing  
15 SHIMADA as a driving force behind the Japanese campaign  
16 to end the China Affair by blockading the China Coast  
17 and by bombing Chungking. It shows SHIMADA threatening  
18 the "Chiang supporting powers," referring obviously to  
19 the United States and Great Britain. He praises total  
20 war and calls the China aggression "Holy war." He  
21 states the determination to "annihilate the remnants of  
22 the foe" thereby contradicting his present testimony  
23 that he favored peaceful solution of the China aggres-  
24 sion.  
25

He calls this press interview his "Report to

1 all the People," and it is offered particularly as an  
2 example of his press propaganda used for preparing and  
3 inciting the masses of the Japanese people for what he  
4 calls total and "Holy war."

5 Further importance is given this statement by  
6 the fact that a month later he was selected as Navy  
7 Minister. And the probative value, if the Court please,  
8 of the document appears to the prosecution to lie in the  
9 fact that these words are the words of the defendant  
10 himself revealing his mind by words of his own mouth,  
11 and for these reasons the prosecution offers in evidence  
12 IPS document 3300, exhibit 3569 for identification.

13 THE PRESIDENT: Mr. Brannon.

14 MR. BRANNON: Mr. President, we first ask the  
15 direction of the Court that the prosecutor not be  
16 allowed to issue a summary at the time of introducing a  
17 document.

18 THE PRESIDENT: Well, it appears to be a very  
19 careful preparation, but it was rather long.

20 However, go ahead with your objection.

21 MR. BRANNON: This is a newspaper article pur-  
22 porting to contain remarks of the accused SHIMADA at a  
23 press conference immediately after his return from China.  
24 It, being simply a newspaper report, probably the lowest  
25 type of evidence, is highly immaterial along with its



1 unreliability. It contains nothing but alleged state-  
2 ments of SHIMADA concerning his performance as Commander  
3 in Chief of the China Seas Fleet.

4 In this respect, we wish to call to the atten-  
5 tion of the Tribunal SHIMADA's own testimony where he  
6 stated that he carried out his naval duties to the best  
7 of his ability. Now, there is no denial that the Navy  
8 participated in the China Affair, that there was a  
9 blockade of the coast, et cetera, and this matter be-  
10 comes highly redundant and certainly immaterial, espe-  
11 cially in the sense of rebuttal.

12 For example, the second paragraph contains  
13 simply a statement of SHIMADA's regret at the loss of  
14 lives and his condolence to the families of the injured  
15 and the men who died on the battlefield. His statement  
16 about the Chungking regime as being on its last legs is  
17 merely a military man's opinion, together with such  
18 statements that the morale of the men of the Navy was  
19 high and that he hopes that the people will give their  
20 support, et cetera, makes it all entirely immaterial and  
21 irrelevant.

22 THE PRESIDENT: By a majority the objection is  
23 overruled and the document admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution document 3300,  
25 now exhibit No. 3569 for identification only, will be

marked as received in evidence and retain the same exhibit  
1 number.

2 (Whereupon, exhibit No. 3569,  
3 previously marked for identification, was  
4 received in evidence.)

5 CAPTAIN ROBINSON: I shall read from the docu-  
6 ment.

7 "Make Manifest the Reality of National Total  
8 Warfare! Says Admiral SHIMADA upon Return

9 "Admiral Shigetaro SHIMADA, who had been trans-  
10 ferred from the post of Commander-in-Chief of the China  
11 Area Fleet to that of Commander-in-Chief of the Yokosuka  
12 Naval Station, returned to Tokyo on the 15th together with  
13 Vice-Admiral Ibo TAKAHASHI who held an important post at  
14 the front, and after reporting on the war situation to  
15 His Majesty, they withdrew from the Imperial Palace at  
16 2:50 p.m. They then visited the Navy Ministry, and after  
17 having tendered their greetings to Navy Minister OIKAWA  
18 and Naval Chief of Staff NAGANO, a press interview was  
19 held at the Navy Minister's official residence, when  
20 Admiral SHIMADA remarked as follows:  
21

22 "On the occasion of today's Imperial audience  
23 when I reported on the war situation, I was deeply stirred  
24 by the gracious words of His Majesty. One year and four  
25 months have elapsed since I received the Imperial



1 commands on May 1, 1940, to serve as the Commander-in-  
2 Chief of the China Area Fleet. During this time I have  
3 managed to deal a serious blow to the anti-Japanese  
4 Chungking regime by still further intensifying the block-  
ade and air operations against it."

5 I want to drop a sentence, if the Court please,  
6 to:

7 "Furthermore, all officers and men under my  
8 command are, by braving stormy seas and combatting against  
9 intense cold and scorching heat as well as enduring all  
10 hardships and privations, doing their utmost towards the  
11 attainment of the object of the Holy War by diligently  
12 performing their military duties day and night with an  
13 ardent sense of loyalty and duty to the State."

14 I omit the rest of that page, turning to the  
15 next page of the document.

16 "The Chungking regime is now practically on its  
17 last legs as a result of the close combined attack of  
18 our Navy and Army, and, on one hand, due to the steady  
19 development and strengthening of the Nationalist /TN  
20 Nanking/ Government, the settlement of the China Inci-  
21 dent has been making steady progress. On the other hand,  
22 however, the confrontation between the Chiang supporting  
23 powers and our nation has come to assume serious pro-  
24 portions suggestive of an aggravated tension in the inter-  
25

international situation. It is needless to remark that,  
1 in order to attain the final goal of the Holy War, the  
2 determination to save this grave situation with a truly  
3 united national front and colossal efforts are required.  
4 I take great pleasure in being able to report to all the  
5 people of the home front that the morale of the officers  
6 and men of the China Area Fleet runs very high and that,  
7 determined to annihilate the remnants of the foe, they  
8 have adjusted themselves into a resolute and firm  
9 position . . . ."

10 I omit reading the rest because I believe it  
11 doesn't bear on the points for which the document was  
12 introduced.  
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1 The prosecution now offers IPS document No.  
2 3291-A.

3 THE PRESIDENT: Yes, Captain Robinson.

4 CAPTAIN ROBINSON: This document is an official  
5 report to the Diet by Navy Minister SHIMADA on 16  
6 November 1941.

7 On cross-examination the defendant was con-  
8 fronted with the document, transcript 34744-47, but  
9 denied recollection of essential points.

10 The document contradicts SHIMADA's testimony  
11 that he had not aggravated the China Incident and that  
12 he was ready to help settle it peacefully. The  
13 document shows that as Navy Minister, SHIMADA carried  
14 on aggressive tactics against China, including  
15 blockade, bombardment of cities, and particularly 26  
16 surprise attacks on the China coast by the Japanese  
17 Navy. SHIMADA shows special familiarity with surprise  
18 attacks by Naval air forces, speaking here about three  
19 weeks before the Pearl Harbor attack. In this address  
20 he joins TOJO in declaring that a serious international  
21 crisis is imminent.  
22

23 This document has probative value as the  
24 official words of the defendant SHIMADA himself.

25 The prosecution offers in evidence IPS  
document No. 3291-A.

THE PRESIDENT: Mr. Brannon.

1 MR. BRANNON: If the Tribunal please, this  
2 is not an official report. This appears to be a  
3 newspaper gist of an alleged speech made by SHIMADA  
4 at a session of the House of Peers and the House of  
5 Representatives. None of it purports to be a  
6 quotation of what SHIMADA actually said, except a  
7 short paragraph on page 3. This quoted paragraph  
8 contains merely SHIMADA's words about the international  
9 situation given publicly and verifies what he heretofore  
10 testified.

11 The rest of the document appears to be merely  
12 a report on the naval operations in China, stating  
13 that the objectives were military. There is no denial  
14 of the blockade of the China coast by the Navy.  
15 "Surprise attack" here could not be used in the sense  
16 as stated by the prosecution because this affair had  
17 been going on for a length of time and military  
18 operations were expected by both sides.

19 THE PRESIDENT: By a majority the objection  
20 is sustained and the document rejected.

21 CAPTAIN ROBINSON: The prosecution offers  
22 IPS document 3327, exhibit 3570 for identification.

23 THE PRESIDENT: Please state for what purpose.

24 CAPTAIN ROBINSON: The document is, according  
25



1 to the Japanese text and as translated, the important  
2 or essential points in Navy Minister SHIMADA's talk  
3 celebrating the fifth anniversary of the China Incident.  
4 The witness was confronted with the document, transcript  
5 34,750-52, but he denied on cross-examination that  
6 the document showed him favoring the conquest of China,  
7 the domination of Greater East Asia by Japan and the  
8 Axis alliance. That question was directly put to him.  
9 It contradicts the testimony by SHIMADA, transcript  
10 34,697, that when he entered the TOJO Cabinet he  
11 sincerely tried to reach a peaceful solution with the  
12 United States and Britain, and the document shows  
13 his intense animosity toward America, Britain and  
14 China, and strong attachment to "our friends, the  
15 Germans and Italians."

16 Special probative value, the prosecution  
17 believes, arises from the fact that the document  
18 presents the words of SHIMADA himself, thus revealing  
19 his actual mind and intent on each of the three  
20 important points which I have mentioned.

21 If the Court please, I would like to quote  
22 from the question put to SHIMADA on this particular  
23 point, but I shall not do so unless --

24 At transcript 34,752, if the Court please,  
25 the question was put in cross-examination whether he

1 did not find in this document, which was placed in  
2 his hands, a statement and I quote, "...of the Three  
3 Demands which you favored and which made impossible  
4 the success of diplomatic negotiations with the  
5 United States, namely" --

6 (Mr. Brannon approached the lectern.)

7 I would like to finish my sentence, if the  
8 Court please.

9 MR. BRANNON: If the Tribunal please --

10 THE PRESIDENT: Complete the sentence.

11 CAPTAIN ROBINSON: (Continued) "--namely,  
12 first, the conquest of China, second, the domination  
13 of Greater East Asia as the special calling of Japan,  
14 and third, the Axis alliance." To which the defendant  
15 SHIMADA answered "There could not have been any  
16 occasion for me to say any such thing because such  
17 an idea has never entered my mind."

18 This document squarely and briefly contradicts  
19 him on each of those three points by brief excerpts  
20 that can be made from it.

21 THE PRESIDENT: Do you object, Mr. Brannon?

22 MR. BRANNON: I think such comment might be  
23 proper after I made an objection to the document.

24 THE PRESIDENT: Is that directed at me?

25 MR. BRANNON: No, but --



1 THE PRESIDENT: I want to know whether you  
2 object.

3 MR. BRANNON: I am objecting.

4 THE PRESIDENT: The objection is sustained  
5 by a majority and the document rejected.

6 CAPTAIN ROBINSON: Sustained, your Honor?

7 MR. BRANNON: To that document?

8 THE PRESIDENT: The document is rejected.  
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1 CAPTAIN ROBINSON: IPS documents 3340, 3341,  
2 and 3342 are offered. These documents rebut or con-  
3 tradict defense exhibits 3003-A and 3003-B which were  
4 introduced by the defense as comparative tables of  
5 Japanese and United States Naval vessels "On Hand"  
6 and "Under Construction" on 7 December 1941. Defense  
7 counsel introduced these exhibits in evidence at trans-  
8 cript page 26,618 and read them into the transcript at  
9 pages 26,646 to 650.

10 Defense counsel introduced exhibit 3001, the  
11 certificate of Mr. Albert B. Ray, of the United States  
12 Navy Department, as the source of the United States  
13 figures used in the comparative tables. transcript  
14 pages 26,611-12. Prosecution counsel objected to the  
15 admission of the exhibits as not accurate and cross-  
16 examined the Japanese Naval Statistician, Captain  
17 YOSHIDA, in order to show that the exhibits were not in  
18 fact accurate presentations of Mr. Ray's statistics.  
19 It was objected that the Japanese and the United  
20 States Navy used the terms "On Hand," "Under Construc-  
21 tion," and "Miscellaneous" with different meanings.  
22 For these reasons it was objected that the charts were  
23 not dependable in purporting to show the comparative  
24 strength of the Japanese Navy and the United States  
25 Navy on 7 December 1941.



1 The President of the Tribunal in open court  
2 made specific suggestions, transcript page 26,628 and  
3 transcript page 26,648, that the prosecution might  
4 offer in rebuttal evidence which would clear up differ-  
5 ences in terminology between the Japanese and American  
6 naval statistics. The President said, "That figure,  
7 for miscellaneous vessels, ought to be cleared up...  
8 The Americans may include under 'miscellaneous' a lot  
9 of ships which the Japanese would exclude under the  
10 same heading. But we must leave it to the parties to  
11 clear that up."

12 IPS documents 3340, 3341, and 3342 are offered  
13 with a view to meeting the suggestion of the President.  
14 The certificate on these documents by Mr. Albert B.  
15 Ray shows that he has prepared them to conform with  
16 the definitions and headings used by Mr. YOSHIDA in  
17 preparing exhibits 3003-A and 3003-B.

18 In these tables Mr. Ray shows that exhibits  
19 3003-A and 3003-B in fact do not present accurately  
20 the statistics obtained from Mr. Ray. For example,  
21 Mr. Ray's table, IPS document 3340, shows exhibit 3003-A  
22 in error on total U. S. vessels "on hand" by an excess  
23 of 1,000 vessels and 1,000,000 tons. Mr. Ray's IPS  
24 document No. 3342 shows exhibit 3003-B in error on  
25 total U. S. vessels "under construction" by an excess of

800 vessels and over 1,200,000 tons.

1           On cross-examination, as a foundation for  
2 rebuttal, the witness YOSHIDA was asked impeaching  
3 questions at transcript pages 26,624 and 26,643, to  
4 point out that there had been mis-applications of the  
5 American Navy figures.

6           IPS documents 3340, 3341, and 3342, as duly  
7 certified by Mr. Albert B. Ray on the face of the  
8 tables, are offered in evidence.

9           THE PRESIDENT: Mr. Brannon.

10           MR. BRANNON: We object to these three docu-  
11 ments on the following grounds: They contain the same  
12 basic figures and there is no denial of this fact by  
13 the prosecution. as those figures which were used to  
14 draft the defense documents 3003-A and 3003-P. The  
15 prosecution has not shown how these definitions can  
16 change the totals by evidence, and until they do so  
17 the offer of these documents is premature.

18           This is true in the face of the fact that the  
19 same basic statistics for both charts are admittedly  
20 true by both the prosecution and the defense. There  
21 did the United States definitions come from, such  
22 as the terms "On Hand," "Under Construction," and  
23 "Miscellaneous"? We don't know.

24           THE PRESIDENT: I am referred to the last part  
25



1 of Mr. Rav's certificate, where he says he gets them  
2 from the Japanese.

3 MR. BRANNON: I am referring to the American  
4 figures. There is no evidence before this Tribunal as  
5 to how the United States defined those terms.

6 Now, if the Tribunal please, actually going to  
7 the base of this, here is the answer: The defense has  
8 presented a chart showing the comparative strength of  
9 the Japanese and the United States Navy. The basis of  
10 the statistics was taken from the prosecution figures  
11 and the United States figures, which are not questioned.  
12 If there is an argument over the meaning of the words  
13 "On Hand," it resolves itself simply to this: that  
14 as a matter of time, perhaps, the ship did not have  
15 its crew assigned to it or some similar small objection.  
16 Take, for example, the reduction of battleships; the  
17 chart I presented being seventeen to this chart of fif-  
18 teen. Those ships did not disappear. They were there.  
19 It is just a question whether they had the oil aboard  
20 or some other technical reason.

21 I submit this would be true as to vessels under  
22 construction. The only difference in the two terms  
23 is that the United States says, when they let the con-  
24 tract the ship was under construction, and the Japanese  
25 say when the keel was laid it was under construction.

1 This does not change, Mr. President, the statement made  
2 by you on page 26,630 of the record pertaining to this  
3 matter. We should not forget the magnitude of the  
4 issues here and confuse them with small issues such as  
5 might arise in a naval inquiry in Washington or some-  
6 where else. The question to be put to the prosecution  
7 in regard to this is whether or not they challenge  
8 the United States figures as presented by the defense  
9 in exhibit 3001.

10 THE PRESIDENT: By a majority the objection,  
11 is overruled and the document admitted on the usual  
12 terms.

13 CLERK OF THE COURT: Prosecution document  
14 3340 will receive exhibit 3838. Prosecution document  
15 3341 will receive exhibit 3838-A. Prosecution docu-  
16 ment 3342 will receive exhibit 3838-B.

17 (Whereupon, document 3340 was marked  
18 prosecution exhibit 3838 and received in evi-  
19 dence; prosecution document 3341 was marked  
20 prosecution exhibit 3838-A and received in  
21 evidence; and prosecution document 3342 was  
22 marked prosecution exhibit 3838-B and received  
23 in evidence.)  
24  
25



THE PRESIDENT: Must you read this?

1           CAPTAIN ROBINSON: No, sir. I was just going  
2 to say, sir, that these documents will not be read ex-  
3 tensively into the transcript. In view of the fact,  
4 however, that defense counsel read into the transcript,  
5 26,646 to 650, exhibits 3003-A and 3003-B which these  
6 new exhibits are offered to rebut, it appears to be  
7 necessary to show some of the changes or corrections  
8 presented by the new exhibits.  
9

10           THE PRESIDENT: You have already referred to  
11 them. That will be sufficient, perhaps.

12           CAPTAIN ROBINSON: I have referred to the  
13 total, sir, the total difference of some 1800 ships and  
14 some 2200 thousand tons, but I haven't referred to any  
15 particular figures.

16           The Court will recall Admiral Richardson's  
17 testimony at transcript 11,177-87, on the importance of  
18 aircraft carrier supremacy as attained by Japan. The  
19 Court's attention is invited particularly to the fact  
20 that exhibit 3838 shows that on 7 December 1941 the  
21 United States had six aircraft carriers, whereas Japan  
22 had ten.  
23

24           Reference to exhibit 3838-B, showing the com-  
25 parative strength in the Pacific, shows the difference  
to be even greater, with Japan having ten carriers, the

1 United States three. That is exhibit 3838-B, the second  
2 entry.

3 I would call attention by way of deviation here  
4 to the fact that table A and table B, and also table C,  
5 with respect to battleships, should be reduced by eight  
6 battleships, in view of the testimony of Admiral  
7 Richardson, transcript 11,235, not disputed in this case,  
8 that the attack on that date, in the morning, either  
9 destroyed or severely damaged eight of the United  
10 States battleships indicated on these charts.

11 Exhibit 3838 contradicts 3003-A in the follow-  
12 ing classifications:

13 Battleships, 15 instead of 17.

14 Destroyers, 142 instead of 172, and

15 Miscellaneous types, 176 instead of 1192.

16 Exhibit 3838-B contradicts exhibit 3003-B in  
17 the following classifications:

18 Under construction: Aircraft carriers, 10  
19 instead of 22.

20 Light cruisers, 18 instead of 31.

21 Destroyers, 88 instead of 256.

22 Submarines, 38 instead of 96, and

23 Miscellaneous, 349 instead of 895.

24 IPS document 3341, now exhibit 3838-B, as pre-  
25 pared by Mr. Ray, gives comparative strength in Pacific



1 Ocean areas. This table, therefore, further provides  
2 correction or position for exhibits 3003-A and 3003-B  
3 as purporting to present comparative naval strength of  
4 Japan and the United States on 7 December 1941.

5 That is all the comment that I care to make,  
6 sir, about the comparisons in correcting the record.

7 THE PRESIDENT: Are you sure you have called  
8 the right number of these exhibits?

9 CAPTAIN ROBINSON: I beg pardon, sir?

10 THE PRESIDENT: I am told you are quoting ex-  
11 hibit A when you really mean exhibit B.

12 CAPTAIN ROBINSON: On table C, I should have  
13 3838-B instead of 3833-B; I see that. In order to have  
14 the record straight, may I give the IPS document number  
15 and the exhibit number opposite?

16 IPS document 3340 is exhibit 3838; 3341 is  
17 3838-A, I see, and IPS document 3842 is 3838-B; is  
18 that correct?

19 On the order of proof, if the Court please,  
20 there are three documents listed which may be offered in  
21 evidence, although they are merely supplementary to these  
22 three charts and are not a necessary part of them.

23 THE PRESIDENT: Mr. Brannon.

24 MR. BRANNON: The defense submits that IPS  
25 document 3336 is highly relevant, and if the prosecution

1 does not call the witness on that one -- I believe that  
2 is the next in line that he is referring to -- the de-  
3 fense will have to in sur-rebuttal.

4 CAPTAIN ROBINSON: The prosecution will offer  
5 in evidence IPS documents 3336, 3339 and 3351, therefore.

6 THE PRESIDENT: Is there no objection to any  
7 of these three?  
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1 MR. BRANNON: We object to IPS document  
2 3336 which is labeled a certificate but which is,  
3 nevertheless, an affidavit. He is the prosecutor's  
4 witness for they have relied upon his definition of  
5 the terms "on hand," "under construction," and  
6 "miscellaneous." He should be produced for cross-  
7 examination by the defense because we clearly intend  
8 to show by this witness that there is no real differ-  
9 ence between the American definition of these basic  
10 terms and the Japanese. This strikes directly at the  
11 heart of the chart offered by the prosecution because,  
12 as I said before, the basic statistics are the same and  
13 are not in dispute. It is only definitions.

14 IPS document 3339, next in order, cannot,  
15 of course, be subject to any responsible objection  
16 because the other documents have already been admitted  
17 by the Tribunal. Suffice to say, the defense has had  
18 no chance for cross-examination of Mr. Ray, who drew  
19 the American charts although we brought in the Japanese  
20 expert who drew the defense chart.

21 Next in order is IPS document 3351 to which  
22 we object. This appears to be some naval officer,  
23 reserve naval officer in the United States, to whom  
24 copies of the transcript of this trial were sent and  
25 who has made observations and opinions as to the

1 evidence given here before the Tribunal. He is not  
2 here for cross-examination and I submit the defense,  
3 having been bitterly challenged on a matter of this  
4 kind where two charts appear so obviously different,  
5 should have the right to examine the American commen-  
6 tator on such a thing. This is the document that sets  
7 out the American definitions of these three terms,  
8 "on hand," "under construction," and "miscellaneous."

9 THE PRESIDENT: These are more important  
10 than the charts really, because the charts merely  
11 carry out what the documents say.

12 MR. BRANNON: I don't make an idle request,  
13 Mr. President, because the time is short and I realize  
14 how impossible it would be to produce this witness or  
15 to submit interrogations; but when he makes statements  
16 like this in the American definition: "On hand --  
17 This included some vessels which had not been fitted  
18 out or reported for Fleet duty." The words, "some  
19 vessels" -- What does it mean? We have no way of  
20 telling here and it could be the same as the Japanese  
21 definition that such ships were generally ready for  
22 operational service.

23 CAPTAIN ROBINSON: If the Court please, I am  
24 not sure what counsel is objecting to. The position  
25 of the prosecution, I thought, was made clear that the



certificate of Mr. Ray on the charts is considered  
1 adequate for their authentication and the documents  
2 now offered are offered merely with the idea that they  
3 are cumulative. If they would be of assistance to  
4 the Tribunal they, of course, are offered; if not, they  
5 are not considered necessary.

6 MR. BRANNON: If the Tribunal please, this  
7 document is the foundation document of the prosecution  
8 charts. The charts cannot exist without the American  
9 definition of these three terms and the comparison with  
10 the Japanese. We object for the reasons stated.  
11

12 THE PRESIDENT: I understand you are **not** objecting  
13 to document 3336 because it is your own witness' cer-  
14 tificate, but you are objecting to the two American  
15 affidavits unless the deponents are called for cross-  
16 examination.

17 MR. BRANNON: I can't accept the statement  
18 that YOSHIDA is a defense witness in this sense. The  
19 prosecution originally introduced the terms "on hand"  
20 and "under construction," and they did so by this man  
21 YOSHIDA. He was their witness.

22 I obtained the American figures and had this  
23 man YOSHIDA put them together. I never relied upon  
24 him except as a draftsman, and I don't accept the  
25 statements he makes here.

1 THE PRESIDENT: But exhibits 3003-A and -B  
2 are his and yours. They are your evidence.

3 MR. BRANNON: His definitions are not mine,  
4 Mr. President, and I insist that he be called so we  
5 will have the right for cross-examination.

6 THE PRESIDENT: The contest is between him  
7 and the two Americans. He is on your side so what is  
8 the use of saying he is not your witness or it is not  
9 your evidence?

10 MR. BRANNON: Well, it is not a point neces-  
11 sary to argue. I will just recall him later if the  
12 Tribunal is going to allow surrebuttal. We will never  
13 clarify this, I assure the Tribunal, until we know  
14 the meaning of these two sets of definitions. They  
15 have not been explained to this Court.

16 THE PRESIDENT: By a majority the objections  
17 are overruled and the documents admitted on the usual  
18 terms.

19 MR. BRANNON: Is the document numbered 3336,  
20 so-called certificate of YOSHIDA, to be taken as a  
21 certificate or an affidavit? We are requesting the  
22 right of cross-examination of this man.

23 THE PRESIDENT: It looks like an affidavit  
24 to me, Mr. Brannon. Not the kind we use, but it looks  
25 like a Japanese affidavit, so your right to cross-examine



will not turn on the form of the document.

1           MR. BRANNON: I request the right to have  
2 the witness called for cross-examination before the  
3 document is read or afterwards at any time.

4           CAPTAIN ROBINSON: The reading of these  
5 affidavits is not considered to be necessary, if the  
6 Court please, by the prosecution.

7           THE PRESIDENT: We will recess for fifteen  
8 minutes.

9           (Whereupon, at 1045, a recess was  
10 taken until 1100, after which the proceedings  
11 were resumed as follows:)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Captain Robinson.

4 CAPTAIN ROBINSON: Are there some exhibit  
5 numbers to announce, if the Court please?

6 CLERK OF THE COURT: Prosecution document  
7 3336 will receive exhibit No. 3838-C. Prosecution  
8 document 3339 will receive exhibit No. 3838-D. And  
9 prosecution document 3351 will receive exhibit  
10 No. 3838-E.

11 (Whereupon, the documents above  
12 referred to were marked prosecution exhibits  
13 No. 3838-C, 3838-D and 3838-E, respectively,  
14 and received in evidence.)

15 CAPTAIN ROBINSON: IPS document 3344 is offered.  
16 It is entitled "Operational History of Japanese Air-  
17 craft Carriers."

18 THE PRESIDENT: Why have you passed over  
19 3340, 3341 and 3342? Oh, you tendered those before the  
20 recess.

21 CAPTAIN ROBINSON: Yes, your Honor.

22 MR. BRANNON: Has the Tribunal ruled upon the  
23 defense's request to cross-examine YOSHIDA?

24 THE PRESIDENT: I have not had an opportunity  
25 of consulting all the Judges yet.



Captain Robinson.

1           CAPTAIN ROBINSON: IPS document 3344 covers  
2 the ten carriers which Japan had on hand on 7 December  
3 1941 in their operations on that date and subsequent  
4 to it.

5           This document is offered to rebut or contra-  
6 dict the testimony of defense witnesses and opening  
7 statements of defense counsel.

8           On direct examination, transcript 26,672,  
9 defense witness Admiral Nobutake KONDO testified  
10 that Admiral Richardson was in error in stating that  
11 Japanese construction of aircraft carriers indicated  
12 aggressive intentions because KONDO testified, trans-  
13 cript 26,676, that the Japanese carriers were constructed  
14 for defensive purposes and not for offensive; that only  
15 six of the carriers "could be utilized for fleet action"  
16 and he described the cruising radii of the first line  
17 carriers as "far shorter than those of the United  
18 States naval ships."

19           Defense witness Admiral MIYO likewise stated  
20 that two of the carriers were "small ships of low  
21 speed and short radius of action."  
22

23           IPS document 3344 is offered not to be quoted  
24 or read from but to show that in regard to the offen-  
25 sive qualities of these ten carriers, all ten of them

1 engaged in combat action and all ten were operating  
2 units of Japanese fleets; and with regard to limita-  
3 tions of their radii of operations to Japanese home  
4 waters, these carriers, as this exhibit shows, ranged  
5 the whole Pacific for a total distance of 330,000  
6 nautical miles, extending from the Aleutians to Singa-  
7 pore, and from Hawaii to the Indian Ocean.

8 The document is offered in evidence.

9 THE PRESIDENT: Mr. Brannon.

10 MR. BRANNON: I object to the document on the  
11 ground that it is entirely incompetent and immaterial.  
12 It doesn't state whether or not the ships were fueled  
13 by oil tanker, or what they were. There has been no  
14 denial that these were ships used in combat action,  
15 with the exception of the first listed here, the Hosho.

16 THE PRESIDENT: By a majority the objection is  
17 overruled and the document admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution document 3344  
19 will receive exhibit No. 3839.

20 (Whereupon, the document above re-  
21 ferred to was marked prosecution exhibit No.  
22 3839 and received in evidence.)

23 CAPTAIN ROBINSON: I shall not quote from that  
24 exhibit. It is offered merely for reference.

25 IPS document 3345 is offered. This document



1 is the affidavit of Captain Edwin T. Layton, U. S. Navy,  
2 Fleet Intelligence Officer, U. S. Pacific Fleet, from  
3 1940 to 1944.

4 The document is offered to contradict new  
5 points raised by the defense in opposition to the  
6 Mandate Island evidence presented by Brigadier Quilliam  
7 as Associate Prosecutor, and by Admiral Richardson as  
8 witness, to show unlawful fortification of the Mandate  
9 Islands by Japan as preparatory to aggressive war. The  
10 defendant SHIMADA testified, transcript 36,667:

11 "The prosecution statement that fortification  
12 of the Mandated Islands was carried out in secret over  
13 a period of years prior to 1941 is completely unfounded.  
14 While I knew nothing of the blueprint map introduced  
15 in evidence, I can only say that it is natural that  
16 desk plans be held in reserve for this most vital geo-  
17 graphical area in order to meet all eventualities.  
18 The United States forces must have recognized even  
19 after the occupation of the various South Sea Islands  
20 that there was little resembling fortifications. The  
21 defenses of these islands were hurriedly carried out  
22 from the time immediately prior to the commencement  
23 of war with only necessary equipment such as medium  
24 calibre guns being installed and the converting of  
25 airfields with the main objective in mind of preventing

1 the enemy from capturing and using these strategically  
2 important islands against us."

3 IPS document 3345 squarely contradicts the  
4 defendant SHIMADA on each point stated by him in the  
5 paragraph quoted. It also contradicts defense witness  
6 YOSHIDA on points which may be left to be indicated  
7 later. The document is now offered in evidence.  
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THE PRESIDENT: Mr. Brannon.

1 MR. BRANNON: If the Tribunal please, this  
2 is an attempt at new procedure. Prosecution sends the  
3 transcript pages of defense evidence to naval experts  
4 in the United States for comment and opinion. They  
5 reduce this remote control evidence to writing and  
6 submit it as a document. There is no opportunity of  
7 cross-examination in any sense here.

8 Actually this is what has happened: the  
9 defense answered the prosecution case relative to the  
10 fortification of the mandated islands. We did not  
11 bring in any new evidence. Prosecution, under the  
12 guise of rebuttal, is answering the defense's answer  
13 to their own evidence. Certainly enough this practice  
14 would naturally give rise to the defense's right to  
15 answer the prosecution's answer to the defense's answer  
16 and so on ad infinitum. We brought our witnesses  
17 into court one after another in the flesh during this  
18 phase of the case. We ask that the prosecution do the  
19 same.  
20

21 The affidavit is full of statements and asser-  
22 tions and opinions such as found on page 6, and I quote  
23 this sentence: "It is my firm belief that no nation  
24 would start a war believing they were short of ordinance  
25 materials; and the Japanese did commence a war on

1 7 December 1941."

2 THE PRESIDENT: There is no need for Captain  
3 Layton to say anything so obvious.

4 MR. BRANNON: Is that a statement of the  
5 Tribunal judging this issue?

6 THE PRESIDENT: Will you read it again? I  
7 may have misunderstood it.

8 MR. BRANNON: "It is my firm belief that no  
9 nation would start a war believing they were short of  
10 ordinance materials; and the Japanese did commence a  
11 war on 7 December 1941."

12 THE PRESIDENT: I have nothing to add.

13 MR. BRANNON: We take exception to the remark  
14 of the President. May the record so recite.

15 Now moving on to the annexed exhibits or docu-  
16 ments attached to this exhibit, if the Tribunal please,  
17 they are American intelligence reports concerning the  
18 mandated islands compiled before the war and in the  
19 very early stages of the war. They are speculative,  
20 incomplete, and subject to inaccuracies as is frankly  
21 admitted on page -- document 2, paragraph 7, that is,  
22 and I quote: "While this is admittedly incomplete  
23 and may be subject to inaccuracies, it represents the  
24 latest and best intelligence on this subject." On  
25 several instances the defense have attempted to introduce



1 Japanese intelligence reports and they have been con-  
2 sistently rejected by the Tribunal.

3 THE PRESIDENT: By a majority the objection  
4 is overruled and the document admitted on the usual  
5 terms.

6 CLERK OF THE COURT: Prosecution document  
7 3345 will receive exhibit No. 3840.

8 (Whereupon, the document above referred  
9 to was marked prosecution exhibit No. 3840 and  
10 received in evidence.)

11 CAPTAIN ROBINSON: The prosecution wishes to  
12 read from page 3 of exhibit 3840. I shall begin with  
13 the third paragraph from the top of the page:

14 "On pages 26,485 & 26,486 of the transcript  
15 Captain YOSHIDA distinguishes between a 'konkyochi'  
16 and 'kichi'. He admitted these air bases were there  
17 (pages 26,472 and 26,473). To my knowledge, almost  
18 every Japanese base throughout the war, except the very  
19 major ones, were called 'kichi'.

20 "Moreover, page 323 of the Japanese-English  
21 Dictionary of Sea Terms by Lt. Comdr. C. OZAKI, published  
22 by the 'Suikosha' (Japanese Naval Officers' Club) of  
23 Tokyo shows the Japanese word 'Kichi' defined as 'base',  
24 and gives 10 examples of detailed use of the word 'Kichi'  
25

1 with various kinds of bases such as 'submarine base',  
2 'naval base', 'repairing base', 'base commander',  
3 'base of operations', etc."

4 Dropping down to the middle of the next para-  
5 graph on the same page, the third sentence in the last  
6 paragraph on page 3:

7 "Though he does not so state directly, Captain  
8 YOSHIDA does intimate that the U. S. Navy used an  
9 expression 'Available Spot' to apply in some way to a  
10 kind of base. The U. S. Navy has never used the term  
11 'available spot' for 'base', whether temporary, ad-  
12 vanced or permanent base."

13 Turning to the next page, page 4, next to the  
14 bottom paragraph:

15 "Documents No. 1 and No. 2 show that Wotje,  
16 Roi ('Ruotto'), and Taroa were fortified well before  
17 the attack on Pearl Harbor. Document No. 3 confirmed  
18 the fact that those three islands were well fortified  
19 with coastal defense guns, anti-aircraft guns, storage  
20 houses and other facilities, that, by the Japanese  
21 definition, constitute a naval base."

22 Omit to the next page, middle paragraph, page  
23 5:

24 "Documents No. 1 and No. 2 show that the first  
25 Japanese move to bring large amounts of naval personnel,



1 naval materiel, naval engineers and ordnance experts  
2 to the Marshalls was actually observed in mid-December  
3 1940. YOSHIDA denies their existence (page 26,474)  
4 until a decision made in November 1941 (page 26,477).  
5 There is not the slightest shadow of a doubt that our  
6 intelligence indicating the movement in 1940 is  
7 correct and that YOSHIDA suffers a year's lapse of  
8 memory. From information I had at hand at the time,  
9 I am positive that 'the organization of construction,  
10 procurement of necessary materials, allotments of ships,  
11 etc., took place' (page 26,477) not on November 5,  
12 1941, as he says, but probably November 5, 1940, as  
13 we picked up the indications of such a movement in  
14 December 1940."

15 I shall read no more from that document, but  
16 I should like to quote briefly from the annexes of the  
17 document, Annex No. 1 and page 4:

18 "(B) Material Installations in the Mandates

19 "For many years Japan has effectively prevented  
20 observation of activities in the Mandated Islands.  
21 However, it is known that as a result of extensive  
22 hydrographic and meteorological surveys, considerable  
23 expansion and improvements have been completed in harbor  
24 development, 'commercial' air facilities, communications  
25 and meteorological establishments in the principal

1 islands (Jaluit, Ponape, Kusaie, Truk, Palao, and  
2 Saipan). Since late in 1940 Orange Naval and Air  
3 Operations in this area have increased and some forty  
4 to forty-five naval auxiliaries (cargo, transport,  
5 supply, and tankers ..... ex-merchant marine) now  
6 make continuous shuttle trips to the Mandates with  
7 personnel, material, equipment and supplies. (Places  
8 marked # below have been destination for these vessels.)  
9 The 'Material Installations' are listed below to bring  
10 up to date the information reported in ONI-49, 'Ex-  
11 tracts from the Japanese Monograph 1939', pages 127.01  
12 to 127.24 inclusive."

13 Onitting anything further in that annex over  
14 to page 15, the second main paragraph on page 15 of  
15 Annex 1:

16 "Orange's decision to speed up the militariza-  
17 tion was apparently reached concurrently with the sign-  
18 ing of the Tri-Parte Pact, as movements of naval reserve  
19 auxiliaries (taken over from the Merchant Marine) to  
20 the Mandates became apparent thereafter. Since late  
21 in nineteen forty this movement of personnel, materials,  
22 and supplies has progressively increased until in July,  
23 1941, there were approximately forty to forty-five  
24 ships constantly engaged in round trips between Orange  
25 mainland and the Mandates. An analysis shows about



1 sixty-five percent of this shipping is destined for the  
2 Eastern Carolines and Marshalls."

3 Dropping to the bottom paragraph:

4 "Discussion of Short Organizations and Activities

5 "During the early months of 1941, evidence  
6 has shown that an Administrative Organization has been  
7 set up for control and expansion of the military develop-  
8 ments of the Mandates. This Mandate Organization is  
9 taking the line parallel to but separate from the  
10 parent organization, Yokosuka Administration chain,  
11 previously in control. While Palao has always been  
12 the Mandate Administrative center (and may continue to  
13 be) the focus of Supply, Civil Engineering and Munitions  
14 in the Mandates is now centered at Truk."

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1 Omitting the rest of that annex and turning  
2 to Annex No. 2, at page 4 at the top: "Intelligence  
3 Bulletin No. 45-41.

4 "(A) ORGANIZATION OF THE JAPANESE FLEETS.  
5 October 30, 1941 (1057)."

6 Dropping to the second paragraph below:

7 "The principal change consists of a further  
8 increase in the number of fleet commands. This has  
9 arisen from the regrouping of aircraft carriers and  
10 seaplane tenders into separate forces, and from the  
11 creation of special task forces in connection with  
12 the southward advance into Indo-China. The regrouping  
13 has resulted in a notable specialization within the  
14 various commands, as shown below."

15 Reading the next paragraph: "The Japanese  
16 Navy now includes more vessels in active service than  
17 ever before. More merchant ships have been taken over  
18 by the Navy, and the line between merchant ship and  
19 naval auxiliary grows fainter all the time. The base  
20 forces and guard divisions in the Mandated Islands have  
21 also greatly increased the strength of the Navy, which  
22 is on full wartime footing."  
23

24 Dropping to the bottom paragraph:

25 "(B) JAPANESE FORCES AND INSTALLATIONS IN  
THE MANDATED ISLANDS.



1 "1. Fourth Fleet, which may be termed the  
2 Mandate Fleet," --

3 I simply refer the Court to that. I shall not  
4 read the rest of the paragraph.

5 Dropping over to the next paragraph, page 5,  
6 the top paragraph:

7 "2. Up to the present the entire Mandated  
8 Islands have been lightly garrisoned, the majority  
9 of the garrison units being Naval Defense Forces  
10 ('special Landing Forces' corresponding to our Marine  
11 Corps) but some Army troops are believed to be on  
12 Saipan, Palao, Ponape, Truk and Jaluit. The total  
13 garrison force has been estimated at fifteen thousand.  
14 In addition, there are Civil Engineering Units engaged  
15 in development work on various islands. Working in  
16 conjunction with these are naval engineering units,  
17 naval ordnance specialists, navy yard units with  
18 civilian navy yard workers and technicians. The net-  
19 work of naval radio stations has been greatly expanded,  
20 meteorological stations and high frequency direction  
21 finders installed at strategic locations, aviation  
22 facilities increased both in scope and number, and  
23 shore-batteries emplaced on strategic islands of key  
24 atolls."  
25

And the next paragraph:

1 "3. It is apparent that a decision to  
2 expedite the fortification, expansion of facilities  
3 and militarization of the Mandated Islands, was made  
4 late in 1940, probably concurrently with the signing  
5 of the Tripartite Pact. The movement of naval  
6 auxiliaries, small and medium cargo, freight passenger  
7 vessels (ex-merchant marine) to the Mandates began in  
8 December, 1940, and has increased in scope and number  
9 until some seventy odd vessels are engaged in this  
10 traffic, the average number present in the Mandate area  
11 at any one time being some forty odd vessels."

12 Turning to the next page, paragraph 7:

13 "7. The distribution of material, personnel,  
14 and installations in the Mandated Islands is indicated  
15 in table 'A.' While this is admittedly incomplete and  
16 may be subject to inaccuracies, it represents the  
17 latest and best intelligence on this subject. In  
18 addition to those listed in Table A, there are a  
19 number of potential bases, principally in the lagoons  
20 of the naturally protected atolls, which may be used  
21 as emergency bases or may be earmarked for 'priority  
22 two' development."

23 I shall not read any more from that extract.

24 I refer to Table A attached to this annex.

25 In Table A I refer only to the chief Mandated Islands



1 mentioned in the testimony of Admiral Richardson on  
2 this question of fortification of the Mandates as  
3 the eight islands or atolls on which the Combined Fleet,  
4 ~~Top Secret~~, Operation Order No. 1, indicated bases,  
5 namely: Saipan, Kwajalein, Wotje, Jaluit, Taroa,  
6 Truk, Pohnpei and Palau.

7 Finally, I wish to quote briefly from  
8 Annex No. 3, page 1, Admiral Halsey's report, begin-  
9 ning at the top of the page:

10 "United States Pacific Fleet, Aircraft,  
11 Battle Force, U.S.S. Enterprise.

12 "Flagship.

13 "Pearl Harbor, T.H.

14 "9 February 1942.

15 "From: Commander Task Force Eight.

16 "To: Commander in Chief, U.S. Pacific Fleet.

17 "Subject: Action in the Marshall Islands,  
18 1 February 1942."

19 Dropping to: "Enclosure: (A) CO Enterprise  
20 report of action on 1 February 1942, with enclosures  
21 thereto."

22 Dropping to paragraph 2, the first two sen-  
23 tences: "The enclosures provide detailed narratives  
24 of the action of the Enterprise Air Group and squadron  
25 in the objective areas. Information contained herein

1 on the results of the bombardments of Task Groups  
2 8.1 and 8.3 is based on preliminary dispatch reports  
3 only; more detailed information will be forwarded as  
4 soon as received."

5 Dropping toward the bottom of the page:

6 "(b) Shore installations destroyed or  
7 damaged:

8 "(1) Wotje: The entire installation was  
9 apparently destroyed. This includes two hangars,  
10 fuel oil tanks, gasoline stowage, warehouses, shops  
11 and barracks. Two A.A. batteries and all coastal  
12 defense guns were silenced or abandoned.

13 "(2) Taroa: Two hangars destroyed, several  
14 buildings hit and afire in industrial area; both fuel  
15 tanks were ablaze. The radio station on Ollet Island  
16 destroyed.

17 "(3) Roi: Two hangars destroyed. Ammuni-  
18 tion dump blown up and fuel fire left burning. Radio  
19 building demolished. All store and warehouses  
20 demolished by explosion resulting from bombing. Fire  
21 in town on island east of Roi."

22 Dropping to the bottom of that page, item 20:

23 "20. Miscellaneous notes on enemy.

24 "(a) Both Roi and Taroa had complete air  
25 bases of recent construction. Wotje also had a new



1 installation. Pilots report Taroa base better  
2 equipped than Ford Island.

3 "(b) A.A. batteries present on Roi,  
4 Kwajalein, Taroa, Wotje, and Ollet. Guns of 3", .50  
5 and .36 caliber.

6 "(c) Kwajalein apparently used as submarine  
7 base.

8 "(Signed) W. F. Halsey."

9 The next item on the order of proof, IPS  
10 document 3146-A, which has been given exhibit  
11 No. 3572-A for identification, is offered. This  
12 document is a top secret communication from the 8th  
13 Submarine Squadron Commander, Admiral ICHIOKA, to the  
14 Ministry of the Navy, covering operations of that squad-  
15 ron between December 1, 1943 and May 31, 1944. It  
16 bears on the subject of Japanese-German joint sub-  
17 marine operations in the Indian Ocean. The defendant  
18 SHIMADA, as already noted, has discounted such  
19 collaboration and has denied command responsibility.  
20

21 On cross-examination SHIMADA testified  
22 (transcript 34,787) that he was acquainted with Rear  
23 Admiral ICHIOKA but had no recollection that he was  
24 a commander of the 8th Submarine Squadron while  
25 SHIMADA was Navy Minister and Chief of the Naval  
General Staff. The defendant on cross-examination,

1 at transcript pages 34,787-88, was asked a series of  
2 questions based on this document. The document was  
3 handed to the defendant for examination. He replied  
4 to all questions in the negative or by denying recol-  
5 lection. The document was then offered and marked  
6 for identification and it is now offered in evidence.

7 THE PRESIDENT: Mr. Brannon.

8 MR. BRANNON: On the face of the document  
9 it disqualifies itself for the purpose for which it  
10 is offered, that is, to show SHIMADA's knowledge of  
11 the contents, for the reason that it was reported on  
12 July 30, at which time SHIMADA was not Navy Minister,  
13 and actually was received by the Navy Ministry after  
14 SHIMADA had retired from active service.

15 THE PRESIDENT: Do you wish to add anything?

16 CAPTAIN ROBINSON: If the Court please, it  
17 covers a period, 1 December 1943 to 31 May 1944, during  
18 which period the defendant was for part or all of the  
19 time both Navy Minister and Chief of the Naval General  
20 Staff. It describes transactions, therefore, which  
21 cover the period while he was in command responsibility.

22 THE PRESIDENT: By a majority the objection is  
23 overruled and the document admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution document  
25 3146-A will receive exhibit No. 3841.



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1 (Whereupon, the document above  
2 referred to was marked prosecution exhibit  
3 No. 3841 and received in evidence.)  
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1 CAPTAIN ROBINSON: I shall read from  
2 exhibit 3841, excerpts.

3 "Top Secret Communication No. 18 from 8th  
4 Submarine Squadron Commander to the Ministry of the  
5 Navy dated 30 July 1944 (excerpt from file entitled  
6 Headquarters No. 5, Naval Air Materials Omitted, Out-  
7 line of Meritorious Records in the Greater East Asia  
8 War, 1 December 1943 - 31 May 1944).

9 "To Minister of the Navy:

10 "Reported on the 30th July, by Rear Admiral  
11 ICHIOKA, Hisashirō, the Commander of the 8th Submarine  
12 Squadron; at the Headquarters of the 8th Submarine  
13 Squadron.

14 "/The Seal of the Commander of the 8th  
15 Submarine Squadron./

16 "/Personal Secret. Naval Secret. The 8th  
17 Submarine Squadron Secret No. 18./"

18 THE PRESIDENT: Why read all that?

19 CAPTAIN ROBINSON: Well, sir, I thought the  
20 secret classifications there would be of importance.

21 Dropping to the bottom of the page, left-  
22 hand column, under the heading, "Operational Actions":

23 "(1) From the last month on, this squadron  
24 continued to stay at the base of Penang as the South-  
25 western Area Submarine Squadron. With the submarines



1 under my command, squadron prevented enemy's reinforce-  
2 ment for counter-attack from Indian Ocean and crushed  
3 its tactical attempt to attack vessels; cooperated with  
4 and supported the Army in preventing enemy's reinforce-  
5 ment from the sea towards India-Burma border; cooperated  
6 successfully in transporting spies and men on special  
7 missions who were stealing in to feel out enemy's situa-  
8 tion in India, reconnoitered and ravaged enemy's  
9 transportation route from Australia and the eastern  
10 coast of Africa to the Aden Bay, Arabian Coast, India  
11 and the Bay of Bengal; greatly contributed to judgment  
12 of enemy's conditions in the western area by carrying  
13 out reconnaissance and patrol on all strategic points  
14 under joint operation with 'HO' Reconnaissance Planes  
15 Group."

16 Turning to the next page, reading the top  
17 paragraph on the left-hand side.

18 THE PRESIDENT: Well, why? Why not go down  
19 to paragraph (4)?

20 CAPTAIN ROBINSON: Very well, sir.

21 THE PRESIDENT: Oh, yes, (2) refers to Germany.

22 CAPTAIN ROBINSON: Yes, sir. Shall I read  
23 it, sir?  
24

25 THE PRESIDENT: Read (2).

CAPTAIN ROBINSON: (Reading) "Operational

Actions. Services related to War and others.

1           "(2) A part of the submarines under my  
2 command (Sub 'I' No. 8, Sub 'I' No. 29, sub 'I' No. 52,  
3 and Sub 'Ro' No. 501) were despatched to the Atlantic  
4 Ocean and European waters on special duty and engage  
5 in joint operation for a long period to keep on  
6 liaison between Japan and Germany."

7           I shall omit paragraph (3). Across on the  
8 right-hand column, I should like to include paragraph  
9 (5).  
10

11           "(5) The Sub 'I' No. 8, having accomplished  
12 on December 20 the special duty shown in Imperial Head-  
13 quarters Navy Section Instruction No. 205, returned  
14 from Europe; it left Kure on February 21 and is now  
15 operating in this area."

16           And the final paragraph on the left-hand  
17 column, (4):

18           "(4) For the German submarines which had  
19 hastily been dispatched for Japanese-German joint sub-  
20 marine operations in Indian Ocean, sufficient coopera-  
21 tion was given in liaison as well as in such prepara-  
22 tion as maintenance and supply; thus German submarines  
23 were enabled to show their efficiency in the Japanese-  
24 German joint operation advantageously, resulting in  
25 a great contribution to the success of the strategic



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1 plan for the destruction of transportation in the Indian  
2 Ocean Area. The material battle results during this  
3 period are as follows:

4 "Sunk: Merchant ships 20 (190,000 tons).

5 "Sailing Vessels 8 (1,200 tons).

6 "Damaged: One Merchant ship of large size.

7 "Prisoners: 9 enemy crew, besides an English  
8 Captain."

9 The last item on the order of proof is a  
10 witness, IPS document 3347, please.

11 Will the witness Jiro NAKAHARA be called,  
12 please, Mr. Marshal.

13 - - -

14 J I R O N A K A H A R A, called as a witness on  
15 behalf of the prosecution, being first duly  
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY CAPTAIN ROBINSON:

19 Q Please state your name.

20 A Jiro NAKAHARA.

21 CAPTAIN ROBINSON: May the witness be shown  
22 IPS document No. 3347.

23 (Whereupon, a document was handed to  
24 the witness.)  
25

Q Please examine that, Mr. Witness, and state

1 to the Tribunal whether it is an affidavit duly executed  
2 by you.

3 A Yes, it is.

4 Q Are the contents thereof true and correct?

5 A Yes.

6 CAPTAIN ROBINSON: The prosecution offers  
7 in evidence the affidavit, IPS document 3347.

8 THE PRESIDENT: Mr. Brannon.

9 MR. BRANNON: This affidavit is objected to  
10 on the ground that it is a continuation of the naval  
11 presentation of atrocities, and properly should have  
12 been introduced at that time. The only purpose,  
13 apparently, for its introduction now is to show that  
14 atrocities occurred in the vicinity of the Indian  
15 Ocean or on the Indian Ocean, and were ordered by the  
16 Chief of the Naval General Staff.

17 On the first point, the witness definitely  
18 states he at no time saw any execution or the taking  
19 of life. And as to proof that this was ordered by  
20 the Chief of Naval General Staff, his statements are  
21 the grossest of hearsay.

22 CAPTAIN ROBINSON: If the Court please, I  
23 refer to the cross-examination of the defendant  
24 SHIMADA, transcript 34,774. The question asked the  
25 defendant was this:



1 "Q And, now, during that period (February 1944  
2 to July 1944) when you were both Chief of the Naval  
3 General Staff and Navy Minister, did you, in either  
4 or both of your capacities, learn of the widespread  
5 atrocities about which evidence has been presented in  
6 this case as committed by Japanese submarine personnel  
7 in the Indian Ocean and by other Japanese personnel  
8 on numerous Pacific Islands?

9 "A No, I learned nothing. I knew nothing.

10 "Q Would you please explain why it was that  
11 immediately after you took that double command position  
12 in February 1944, Japanese submarines launched their  
13 special campaign to cut Allied supply lines in the  
14 Indian Ocean and to massacre survivors of torpedoed  
15 ships?

16 "A I never knew that such things ever occurred,  
17 and I cannot believe in them -- believe that they ever  
18 occurred."

19 This evidence, this testimony, as shown by  
20 this affidavit is offered to show that an employee of  
21 the Naval General Staff was provided for the Japanese  
22 submarine I-8, and after serving aboard it with the  
23 circumstances such as are shown by the affidavit, that  
24 he returned to the Naval General Staff, that no  
25 inquiries were made of him or of anybody else aboard

1 the I-8 or elsewhere in the Japanese Navy with regard  
2 to the atrocities in the Indian Ocean.

3 THE PRESIDENT: The objection is overruled  
4 and the document admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution document  
6 3347 will receive exhibit No. 3842.

7 (Whereupon, the document above  
8 referred to was marked prosecution exhibit  
9 No. 3842 and received in evidence.)

10 THE PRESIDENT: We will adjourn until half-  
11 past one.

12 (Whereupon, at 1200, a recess was  
13 taken.)

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## AFTERNOON SESSION

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1 The Tribunal met, pursuant to recess, at 1330.  
2  
3 MARSHAL OF THE COURT: The International  
4 Military Tribunal for the Far East is now resumed.

5 THE PRESIDENT: Captain Kraft.

6 LANGUAGE ARBITER (Captain Kraft): If the Tri-  
7 bunal please, the following language alteration is sub-  
8 mitted: reference, exhibit No. 3788-A, last paragraph,  
9 and record page 37,711, lines 18 to 25, and page 37,712,  
10 lines 1 to 9:  
11

12 Delete the entire paragraph and substitute:

13 "That day I (HARADA) met KIDO. KIDO said:  
14 'The whole matter has been handled in a slipshod way.  
15 So, I, too, said plenty at the Cabinet meeting. I  
16 wonder if the General Staff hasn't made various commit-  
17 ments in concrete terms through the German Military  
18 Attache in Tokyo. I feel it very dangerous to see the  
19 Army and Navy, especially the Army, or rather the  
20 General Staff so anxious to press the peace solution.  
21 If we submit many concrete terms and were turred down,  
22 we would be only letting them in on what we want. It  
23 would all be a loss and no gain. I am very worried,  
24 wondering why they are in such a hurry. Today at the  
25 Cabinet meeting, I made a strong statement asserting,

1 "It is necessary that the terms be more abstract and  
2 cover everything. What need is there to obligate our-  
3 selves by asking Germany?" It is very strange that the  
4 General Staff is so eager. I am worried that Germany  
5 might be putting one over on us."

6 THE PRESIDENT: Thank you, Captain Kraft.  
7 Captain Robinson.

8 - - -

9 J I R O N A K A H A R A, called as a witness on be-  
10 half of the prosecution, resumed the stand and  
11 testified as follows:

12 CAPTAIN ROBINSON: Mr. President and Members of  
13 the Tribunal, exhibit 3842, omitting the formal parts,  
14 reads as follows:

15 "I, Jiro NAKAHARA, being duly sworn upon oath,  
16 make the following statement:

17 "1. My name is Jiro NAKAHARA. I was born in  
18 the Territory of Hawaii, of Japanese parents, in 1920.  
19 I came to Japan in 1938. My registered domicile is  
20 Yamaguchi Ken, Oshima Gun, Shiroki-Mura, Tononyu.

21 "2. The Japanese Naval General Staff in  
22 November, 1942, called me in to work as a civilian radio  
23 monitor at the Japanese Naval Foreign Broadcast listen-  
24 ing post. In February, 1943, I was ordered to go to  
25 Truk Atolls. I returned to Japan in October, 1943, and



worked on the listening post in the Naval Headquarters at Tokyo until February, 1944. In that month Commander ARIIZUMI of the Japanese submarine I-8 went to the Navy Ministry in Tokyo and asked for a civilian radio monitor for the I-8, and I was assigned to that duty on written order, sealed by the Vice-Chief, Naval General Staff.

"3. I boarded the I-8 at Kure and we left Japan in February, 1944, and headed for Penang. We stayed in Penang for a week and then went into the Indian Ocean on a patrol south of Ceylon, which lasted from March until May, 1944.

"4. In March, 1944, the I-8 sank a Dutch ship named Tjisalak. About a half hour after the torpedoes hit the ship, the submarine surfaced. Commander ARIIZUMI ordered me to come to the conning tower and to call by megaphone to the lifeboats to come to the submarine. I was told to tell the people in the lifeboats to board the submarine one by one, to go to the foredeck and sit down there, and that they would be shot if they looked back. As they boarded the submarine they were stripped of life belts, watches and all other possessions except their clothes. There were about 100 persons consisting of passengers and crew.

"5. The Captain of the ship, the radio man, the engineer officer, about four other men, and a woman

passenger were taken below in the submarine.

1           "6. As the prisoners boarded the submarine,  
2 their hands were tied behind their backs. After most of  
3 the prisoners had been seated on the deck forward,  
4 four members of the submarine crew went up and brought  
5 the prisoners back, one by one, and they were killed.  
6 As soon as I heard what was going on, I went below to  
7 the officers' messroom. I was called up again by the  
8 Senior Officer to tell them again that they would be  
9 shot if they looked back. I did not actually witness  
10 the killings, but according to the members of the crew,  
11 the survivors of the torpedoed ship were clubbed,  
12 slashed with swords and shot to death. This continued  
13 for about one hour. The Senior Officer, Lieutenant  
14 HONDA, told me to stay on the foredeck and kept telling  
15 me to tell the prisoners to face toward the front,  
16 otherwise they would be shot if they looked back.

17           "7. I had returned to the officers' messroom  
18 when the submarine submerged. Commander ARIIZUMI  
19 ordered me to act as interpreter in questioning the  
20 prisoners who had been taken below. The interrogations  
21 were held in the officers' messroom. He first questioned  
22 the woman. She was then taken to the forward crews'  
23 quarters. About an hour later I went to that room. I  
24 asked the woman if there was anything that she wanted.  
25



1 The only thing she said was that she wanted a cup of  
2 water, so I brought it to her. She told me that she was  
3 in Japan for some time before the war started, that she  
4 was an American Red Cross worker, and that she was on  
5 her way to Bombay, I think. While I was talking to her  
6 the Senior Officer and four sailors came in. They had  
7 two rifles. The Senior Officer said to me in Japanese  
8 that she would have to be shot. I did not tell her but  
9 I think she knew what was going to happen. It was then  
10 night time. The sailors took the prisoners up on deck  
11 one by one and shot them; at least I think so, because  
12 some of the crew afterwards told me that they were shot.  
13 Just before she was taken, I couldn't look her in the  
14 face. She told me that she knew what was going to  
15 happen. The Senior Officer told me to ask her if she  
16 wanted to be blindfolded and her hands tied. She said  
17 she didn't and he said that was okay. Just before she  
18 left she said, 'Sayonara,' the 'Sayonara' was addressed  
19 to all of the crew. I do not remember whether they com-  
20 pleted the interrogations of the men prisoners before the  
21 woman was executed or not.

23 "8. The Master of the Dutch ship had been  
24 brought below with his hands tied behind his back. He  
25 told me to tell Commander ARIIZUMI that it was contrary  
to International Law to have his hands tied. When I

1 interpreted that statement to ARIIZUMI, he said,  
2 'Bakayaro (fool), this is war.' The Master of the  
3 Tjisalak also asked ARIIZUMI to be kind and lenient with  
4 the crew of the Master's ship. After they finished  
5 interrogating him, I think they took him to the forward  
6 crews' quarters. I saw him there at the time I was  
7 talking to the Red Cross worker.

8 "9. When ARIIZUMI finished interrogating the  
9 Master of the Dutch ship, the radio officer of that ship  
10 was interrogated by the Communications Officer of the  
11 submarine, and I acted as interpreter. Then an Engi-  
12 neering Officer was interrogated by the First Officer of  
13 the submarine. I never saw any of the prisoners after I  
14 left the forward crews' quarters.

15 "10. I heard Commander ARIIZUMI telling  
16 Lieutenant HONDA and the medical officer and one other  
17 officer in the officers' mess of the I-8 on the day  
18 after the sinking of the Tjisalak that the Naval General  
19 Staff had ordered that all survivors of the sunken ships  
20 were to be killed. I think HONDA passed this order to  
21 the crew. All of us obeyed orders from ARIIZUMI be-  
22 cause we knew he was ruthless. His nickname among the  
23 crew was Gyangu, meaning gangster.

24 "11. Commander ARIIZUMI had told me during the  
25 interrogation of the Master of the ship that the Japanese



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1 Naval Headquarters had issued an order that everyone on  
2 board enemy vessels was to be slain. He also told us  
3 not to tell anybody about the slaying of the prisoners.  
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1 "12. As soon as the first patrol was  
2 finished we came back to the base at Penang. When  
3 we got back I told Commander ARIIZUMI that I  
4 couldn't go on another trip because I was suffering  
5 from spinal sclerosis, and I am supposed to wear a  
6 cast. He told me if I didn't go I would be court-  
7 martialed. I knew I could not be court-martialed  
8 because I was a civilian.

9 "13. We left Penang on the second patrol  
10 after spending about three weeks there making repairs.  
11 This second patrol continued from early June until  
12 early August 1944. This patrol was in the same area  
13 as the first. In July the I-8 sank the SS Nicolet.  
14 In this second sinking it was exactly the same story  
15 as in the sinking of the Tjisalak three months earlier.  
16 As soon as the submarine fired the torpedoes, it  
17 surfaced. Upon orders of Commander ARIIZUMI, I called  
18 through the megaphone for the survivors to come aboard  
19 the submarine. Again survivors were stripped of all  
20 their belongings except their clothing, were bound,  
21 and sent forward under guard to sit down on the foredeck.  
22 There were about 80 survivors who came aboard the  
23 submarine. After the Master of the Nicolet and other  
24 prisoners had been taken below, the rest of the survivors  
25 according to what I heard from the crew, were brought



back one by one and killed by shooting, bayonetting,  
clubbing or by slashing with swords.

"14. The Master of the Nicolet, the radio man, an engineer, a State Department man and maybe some others who had been taken below, were interrogated. The Master of the Nicolet was questioned by Commander ARIIZUMI, the radio man by the Communications Officer, and the engineer by the engineer of the submarine. They were the same people who did the questioning on the first patrol. Again I was the interpreter. I heard that all the prisoners were executed aboard the submarine, except the Master and the State Department man, and the only prisoner whom I later saw leaving the submarine was the State Department man. The State Department man was thin and had a beard. He asked me for a razor but the Captain told me I could not give him one, and I told a Petty Officer, who, I think, gave him a razor. I told the State Department men that he would get along better if he would cooperate more with the Japanese personnel. He thanked me. This was while we were anchored at Penang but I had not gotten off the ship. I remember we brought him back to Japan in the I-8. I later saw him at Yokosuka.

"15. I did not see any of the executions but

1 I was told by other members of the submarine crew  
2 that some of the prisoners that were taken below  
3 were beheaded and that Commander ARIIZUMI did some  
4 of the beheading personally. I saw the Engine Room  
5 Divisional Officer wiping blood off of his sword after  
6 some of the executions and wash his hands in dis-  
7 infecting water.

8 "16. Since I was a civilian on the ship and  
9 also because I was a Nisei, I was not trusted by many  
10 members of the I-8 crew and they did not tell me  
11 everything that happened.

12 "17. I returned to Japan on the I-8 in  
13 September 1944 and resumed my work as a civilian  
14 radio monitor at the Naval General Staff, where I  
15 worked until August 1945. Soon after I reported back  
16 at Naval General Staff I was told by the Chief of the  
17 Third Section not to relate my experience overseas.  
18 I heard later that Captain ARIIZUMI killed himself  
19 at the end of August 1945. I have read in ARIIZUMI's  
20 official naval personal service record that he was  
21 promoted to Captain in October 1944.

22 "18. I have never been questioned at the  
23 Naval General Staff, or elsewhere by Japanese Naval  
24 or Foreign Office personnel in regard to the events  
25 which I have described in this statement. I never



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1 heard that any of the members of the I-8 crew were  
2 questioned in regard to these events by Japanese  
3 Naval or Foreign Office personnel. I was first  
4 interrogated in regard to these events by Lieutenant  
5 W. Salter, Royal Naval Volunteer Reserve, of the  
6 Legal Section, General Headquarters, Supreme Commander  
7 for the Allied Powers, on 13 June 1947, and then at  
8 later dates by Mr. Thomas C. Fisher of the Legal  
9 Section, GHQ, SCAP.

10 "Signed Jiro, NAKAHARA."

11 You may cross-examine.

12 THE PRESIDENT: Mr. Brannon.

13 CROSS-EXAMINATION

14 BY MR. BRANNON:

15 Q How many people were killed on both ships,  
16 would you say, Mr. NAKAHARA?

17 A I am not sure about the exact number of  
18 prisoners, but I am sure it was about -- about 200.

19 Q Well, in your affidavit I understand there  
20 were a hundred on the first ship and eighty on the  
21 second, but I am not pressing that discrepancy.

22 A Well, as I already told you, I am not sure  
23 about the exact number but it was a rough estimate.

24 Q Of these many unfortunate people I understand  
25 your testimony to be that you did not personally see

any of them killed; is that correct?

1 A Yes, that is true.

2 Q And you have stated you weren't trusted  
3 by the Japanese members of the crew because you  
4 were a Nisei.

5 A Yes.

6 Q And they didn't tell you everything that  
7 went on.

8 A Well, some of them had told me.

9 Q But you say they didn't tell you everything  
10 that went on.

11 A Yes.

12 Q So that it is entirely possible that these  
13 people were not all killed as you have stated in your  
14 affidavit from the hearsay, is it not?

15 A Well, as far as I know, I saw two prisoners  
16 brought -- I saw one of them brought back to Penang.

17 Q Did you see everybody that left the ship after  
18 it anchored?

19 A Do you mean by that the officers and crew  
20 members of the submarine?

21 Q Everyone.

22 A Well, not all of them.

23 Q Now, Mr. NAKAHARA, you were about 22 years old  
24 at this time?



A About 24, I guess.

1 Q Japanese count?

2 A Yes, sir.

3 Q And being a Nisei you were not trusted with  
4 secret information or secret assignments, were you?

5 A No.

6 Q Now, are you prepared to tell this Tribunal  
7 with any certainty that you know of a Naval order that  
8 was issued, commanding the killing of survivors of  
9 ships?  
10

11 A Yes.

12 Q Yes, what, Mr. NAKAHARA?

13 A I can say that Commander ARIIZUMI had orders  
14 from the Naval General Staff to execute all survivors  
15 aboard sunken enemy vessels.

16 Q What I mean is that you never saw any official  
17 orders issued by the Naval General Staff or the  
18 Navy Ministry commanding the killing of survivors  
19 of enemy vessels; is that not correct?

20 A I have never seen a written order issued by  
21 the Naval General Staff.

22 Q As a matter of fact, Commander ARIIZUMI would  
23 have received his orders from his Squadron Commander  
24 and the not the Naval General Staff, would he not?  
25

A That -- well, I am not sure about that.

1 Q In other words, all you are testifying to  
2 is that you heard the Japanese Commander tell some  
3 other officers at mealtime, and also tell you what  
4 he told you, that there were orders from the Naval  
5 General Staff ordering the killing of survivors.

6 A Yes, that is correct.

7 Q Why do you think the Commander told you not  
8 to tell about these killings if it was in compliance  
9 with orders?

10 A It may have been that it might be troublesome.

11 Q To whom?

12 A Well, I don't know.

13 Q Well, if a Japanese officer obeys orders  
14 it is nothing to be afraid of, is it, to admit that  
15 he carried out his orders?

16 A Well, I was a civilian at the time and I  
17 don't know about that because I was not an officer.  
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1 Q When you went back to Tokyo and to the Naval  
2 General Staff, did you report to anybody in the Naval  
3 General Staff concerning this matter?

4 A I did not relate my experience or activities  
5 overseas to any of the officers.

6 Q Do you know whether Commander ARIZUMI reported  
7 the killing of these people?

8 A No.

9 Q As far as you know, then, no one reported  
10 these acts to any one in Tokyo?

11 A As far as I know, no.

12 Q Why do you make point of the fact that you  
13 were never questioned by the Naval General Staff regard-  
14 ing the events you have described?

15 A Well, we went to Truk Atoll once, and when  
16 I came back from Truk Atoll the Chief of the Third  
17 Section told me not to relate my experience overseas.

18 Q Well, that may be a routine security matter,  
19 but are you trying to tell the Tribunal the instruc-  
20 tions were given to you to prevent you from revealing  
21 the commission of atrocities?

22 A I don't think so.

23 Q Did the people on the Dutch ship speak English?

24 A Yes, some of them spoke English.

25 Q All of them that you interrogated I presume

spoke English?

1       A   As far as I can recollect, it was the master  
2 of the ship and the radioman.

3       Q   How long did your submarine stay surfaced during  
4 the time of the Dutch ship incident?

5       A   I can't remember.

6       Q   Can you give us an estimate? Was it an hour,  
7 two hours?

8       A   You mean after the sinking of the Dutch ship?

9       Q   After taking aboard the prisoners.  
10

11      A   It may have been an hour or two hours; I am not  
12 sure.

13      MR. BRANNON: That is all.

14      THE PRESIDENT: Captain Robinson.

15      CAPTAIN ROBINSON: If the Court please, I ask  
16 that the witness be excused on the usual terms.

17      THE PRESIDENT: He is excused accordingly.

18           (Whereupon, the witness was excused.)

19      CAPTAIN ROBINSON: This concludes Order List  
20 10 of prosecution rebuttal evidence.

21      THE PRESIDENT: Mr. Brannon.

22      MR. BRANNON: We had an objection to the docu-  
23 ment, the affidavit of YOSHIDA, and at the time we  
24 asked that he be called for cross-examination the  
25 Tribunal said they had not yet decided the matter



among them and would rule later. Might we ask for a ruling now, Mr. President?

THE PRESIDENT: We are not in a position to give a decision yet, Mr. Brannon.

Colonel Mornane.

COLONEL MORNANE: If it please the Tribunal, during the course of the evidence for the defense in the POW phase and during some of the individual phases, a number of Red Cross reports were put in evidence. These described the conditions of various camps as being good. In addition, during the evidence of some of the defense witnesses, evidence was given of conversations with Red Cross representatives wherein the representative expressed satisfaction at the condition of camps visited.

It is this type of evidence that the prosecution is now seeking to rebut. I invite the Tribunal's attention to the fact that even had the prosecution been aware of these Red Cross reports, it could not in the course of the prosecution's case have set them up as an Aunt Sally for the purpose of knocking them down.

KUDO, Tadao, pages 27,146-68, called during the defense POW phase, refers to visits by Red Cross delegates to various camps, including one to Shanghai

1 prisoner-of-war camp on 18 August 1942. He goes on  
2 to say, "The delegates of the International Red Cross  
3 Committee, after visiting various camps as mentioned  
4 above, reported that the conditions there were "good,"  
5 "favorable," or excellent."

6 SAWADA, Shigeru, pages 27,442-71, was also  
7 called during the prisoner-of-war phase. He was  
8 Commander of the 13th Army at Shanghai until October,  
9 1942. He gave general evidence of the good treatment  
10 of prisoners of war, and went on to say, "The prisoner-  
11 of-war camp was properly equipped and properly managed.  
12 Mr. Egley, a Swiss, delegated by the International Red  
13 Cross to inspect the camp, was highly delighted after  
14 he had inspected the camp, and immediately after his  
15 visit to the camp took the trouble of writing me a  
16 letter of thanks."

17 With the permission of the Tribunal the prose-  
18 cution proposes to tender official Japanese documents  
19 to show that the visit to this camp was delayed from  
20 April until August for the purpose of ensuring that the  
21 prisoners of war would make no complaints and of pre-  
22 paring the camp for inspection. This would explain and  
23 rebut the effect of such reports.

24 These documents form part of exhibit 3367,  
25 which has already been marked for identification,



1 page 31,790. The first document is IPS document No.  
2 1552, Item 30. It is a telegram dated 10 April 1942  
3 from POW Information Bureau to Chief of Staff 13th  
4 Army. I tender that document in evidence.

5 THE PRESIDENT: Is there any objection?

6 Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution document  
8 1552, Item 30, will receive exhibit No. 3843.

9 (Whereupon, the document above  
10 referred to was marked prosecution exhibit  
11 3843 and received in evidence.)

12 COLONEL MORNANE: It contains two paragraphs,  
13 both of which I shall read.

14 "1. Although permission had been requested  
15 some time ago by the Swiss Consul-General in Shanghai  
16 and the representatives of the International Red Cross  
17 Committee to inspect the Shanghai P.O.W. Camps and  
18 report on its condition to the nations concerned after  
19 having personal talks with the prisoners of war, in  
20 consideration of the fact that the preparation and  
21 equipment of the camp had not been completed at that  
22 time so soon after the fighting, we have kept it post-  
23 poned until this day.

24 "2. It is our presumption that you have com-  
25 pleted arrangements by now and so in accordance with  
international provisions intend to permit the tour of

38,154

1 inspection of our Shanghai P. O. "Camp in the near  
2 future. Please let me know your opinion on the matter  
3 as soon as possible."  
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1           The second document is IP document No. 1552,  
2 Item 40, and is a reply to the previous exhibit. It is  
3 dated 13 April 1942. I tender it in evidence.

4           THE PRESIDENT: No objection? Admitted on the  
5 usual terms.

6           CLERK OF THE COURT: Prosecution document 1552,  
7 Item 40, will receive exhibit No. 3843-A.

8                   (Whereupon, the document above re-  
9 ferred to was marked prosecution document No.  
10 3843-A and received in evidence.)

11           COLONEL MORNANE: I will now read the body of  
12 that document:

13                   "As to the inspection of the camp by the Swiss  
14 Consul-General in Shanghai and the representatives of  
15 the International Red Cross Committee, I am of the  
16 opinion that it should be postponed for a while because  
17 the arrangement of the camps, such as the dispensary,  
18 sick-room, kitchen, bath and other places concerned,  
19 are not yet completed, and also the fact that a part of  
20 the prisoner of war room is being renovated. Besides  
21 these things the present mental attitude of the prisoners  
22 is not reasonable."

23                   My next document is IPS document No. 1552,  
24 Item 35. It is from the Prisoner of War Information  
25 Bureau to the Chief of Staff, 13th Army, and is in reply

1 to the previous exhibit. It is dated 16 April 1942.

2 I tender it in evidence.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution document 1552,  
5 Item 35, will receive exhibit No. 3843-B.

6 (Whereupon, the document above re-  
7 ferred to was marked prosecution exhibit No.  
8 3843-B and received in evidence.)

9 COLONEL MORNANE: I propose to read the second  
10 and third paragraphs:

11 "The various installations of the Shanghai  
12 prisoner of war camp should be improved as quickly as  
13 possible so that there may be no trouble on the occasion  
14 of the inspection to be made by the foreigners.

15 "When you consider the proper time for inspec-  
16 tion has been reached, please let me know immediately."

17 My friend has asked me to read the first para-  
18 graph of this document, and I have no objection if the  
19 Tribunal has none:

20 "The inspection of the Hongkong prisoner of  
21 war camp by the delegates of the International Red Cross  
22 Committee is to be permitted early in May."

23 The final document in this series is IPS docu-  
24 ment No. 1552, Item 39. It contains two letters, the  
25 first dated 4 April 1942, from Foreign Vice-Minister to



1 Vice-Minister of War, which contains translation of a  
2 letter of 27 March 1942 from Swiss Minister, request-  
3 ing permission to visit Shanghai prisoner of war camp,  
4 and the second, dated 27 April 1942, is a draft reply  
5 of Vice-Minister of War to the Foreign Minister. I  
6 tender this document in evidence.

7 THE PRESIDENT: Mr. Freeman.

8 MR. FREEMAN: If the Tribunal please, having  
9 presented the P.o.W. phase in the defense case, I ob-  
10 ject to this document on the grounds of its authenticity  
11 and its value.

12 THE PRESIDENT: There is no certificate before  
13 us.

14 COLONEL MORNANE: If the Tribunal pleases, the  
15 certificate covering this document was put in as part  
16 of exhibit 3367, I think the number is, and I understand  
17 that that certificate is in the Court with that exhibit.

18 MR. FREEMAN: If the Tribunal please, there is  
19 no original of this document in the possession of the  
20 Clerk of the Court. It is true there is an affidavit,  
21 by a copyer and by Colonel Mornane, stating that he cannot  
22 find the original. There is no seal on the document  
23 itself that they have offered, which only purports to be  
24 a copy of the original. On the face of the English  
25 translation it would appear that the document was presented

1 to those bureaus within the War Ministry before dispatch-  
2 ing. However, even when the Japanese copy, which is a  
3 copy of a copy of the original that is on file with the  
4 Clerk is examined, all places for seals are blank.

5 Further, it is not clear whether this document  
6 was drafted by the 13th Army or the War Ministry, if by  
7 either. There is not even any name as to the individual  
8 who drafted the document.

9 I am further informed that after the Arbitra-  
10 tion Board checked it, there are several deletions and  
11 insertions in the English that do not appear in the  
12 Japanese copy. On this basis, the authenticity of the  
13 document has not been established, and its value, cer-  
14 tainly, could be very little, if anything, for the  
15 Tribunal.

16 COLONEL MORNANE: If the Tribunal pleases, as  
17 I understand my friend's objection it is really to the  
18 document, which was originally part of exhibit 1552.  
19 That is a file of documents certified to by an official  
20 of the Prisoners of War Information Bureau as forming  
21 part of their official file. It is not suggested by the  
22 prosecution that it is necessarily anything more than  
23 an information copy which had been given to the Informa-  
24 tion Bureau in the normal course of events.  
25

As the Tribunal will recall, a Japanese order



1 for the destruction of documents, exhibit 2000, will  
2 account for the absence of quite a number of original  
3 documents.

4 As a circulative copy, you would not expect it  
5 to bear any seals, but the heading of it bears a date  
6 purporting to show that it was submitted on 23 April  
7 1942, and that would lead to the conclusion that this,  
8 at all events, purports to be a copy of what was an  
9 original document. As I understand my friend, he is not  
10 making any allegation that the copy which is before the  
11 Court is other than a copy of what he calls a copy  
12 which was originally in the file, 1552.

13 I have no knowledge of any decision by the  
14 Arbitration Board, but presume that in any event they  
15 would report it to the Tribunal.

16 MR. FREEMAN: If the Tribunal please, I am  
17 questioning the correctness of the English translation,  
18 even of the copy, and Captain Kraft of the Arbitration  
19 Board has seen the translation and the Japanese, and  
20 if the Tribunal wishes his report he can make it now.

21 THE PRESIDENT: Captain Kraft.  
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1           LANGUAGE ARBITER (Captain Kraft): If the  
2 Tribunal please, I wish to say on behalf of the Lang-  
3 uage Board that it objects to being quoted from the  
4 lectern here by any other than itself. We wish to  
5 make any decisions regarding copies ourselves. In  
6 regard to the correctness of the translation as sub-  
7 mitted to us, the word "copy" has been left off of  
8 the English.

9           The third line of the English copy, "Decision  
10 authorized by: Vice-Minister" gives the wrong im-  
11 pression because in the Japanese it is a form which  
12 says "Decision authorized by Vice-Minister," but it  
13 doesn't have the Vice-Minister's authorization there.  
14 It would appear that the authorization has been given  
15 there, but it has not. From the English it would  
16 appear so.

17           The fourth line, "Action authorized by:  
18 War Ministry" is also a form which says "Action  
19 authorized by." "War Ministry" does not appear in  
20 the Japanese. That is, it does not appear that it  
21 is authorized by the War Ministry.

22           Another item that is omitted, "draft copy  
23 by."  
24

25           THE MONITOR: Captain Kraft, could you give  
us the Japanese for that? For what line in the Eng-



lish?

1           LANGUAGE ARBITER (Captain Kraft): It isn't  
2 in the English.

3           THE MONITOR: Give us the Japanese word for  
4 it.

5           LANGUAGE ARBITER (Captain Kraft): Let's see,  
6 I don't know as I remember the exact Japanese word.

7           THE PRESIDENT: Colonel Mornane, do you  
8 think it is worthwhile wasting all this time of the  
9 Tribunal over a document of this type?

10           COLONEL MORNANE: Oh, no, sir, I do not;  
11 and I did not realize, of course, that this would  
12 happen. The document only completes the story, and  
13 I am quite willing to leave it off rather than waste  
14 the time of the Tribunal.

15           THE PRESIDENT: You withdraw it?

16           COLONEL MORNANE: I withdraw it.

17           Now, if the Tribunal please, in the course  
18 of the ITAGAKI defense phase, three of the Red Cross  
19 Reports admitted in evidence (exhibits 3308, 3309,  
20 and 3310, at pages 30,174-90) referred to POW Camps  
21 in Korea, their general effect being to establish  
22 the conditions at those camps were good. In exhibit  
23 3310, which refers to a visit to the First Branch of  
24 the War Prisoners Camp in Korea on 30 December 1944,  
25

1 the following appears: "We had an interview in the  
2 presence of the Commandant of the Internment Camp  
3 with Major William George Holohan, Captain Mac Gyl  
4 Bray and Non-Commissioned Officer belonging to the  
5 Headquarters, Gardener. Major Holohan, who is an  
6 Englishman, expressed his gratitude to the camp  
7 officials. He regretted for his having failed to  
8 express his thankfulness the last time when the repre-  
9 sentative visited." This, although forming part of  
10 the exhibit, was not read into the record, but still  
11 constitutes part of the evidence.

12 The previous visit to this camp was on 16  
13 November 1943 (exhibit 3140, at page 27,949.)

14 The prosecution seeks permission to produce  
15 evidence to show that on the occasion of the Red Cross  
16 Representatives visit on 16 November 1943, the offi-  
17 cers and N.C.O. referred to above, actually made  
18 complaints to the Red Cross representative and as a  
19 result were punished by solitary confinement. Such  
20 evidence would raise an inference that the men in  
21 question were terrorized into expressing their re-  
22 gret for not having thanked the camp staff on the  
23 previous occasion; otherwise, how explain the incon-  
24 sistency of their conduct? It is significant that  
25 the Japanese report of what took place between other



1 officers and the Red Cross Representative on 16  
2 November 1943, (exhibit 3307), was put in evidence  
3 but no report was given as to any interview with the  
4 officers previously mentioned. It is also signifi-  
5 cant that in exhibits 3308 and 3310 a full report is  
6 given as to camp conditions whilst exhibit 3309 con-  
7 fines itself to accounts of interviews.

8 The evidence I tender is an affidavit made  
9 for another purpose in Western Australia on the 6th  
10 of August, 1947, two months before the Red Cross re-  
11 ports referred to were admitted in evidence.

12 I tender IPS document No. 3176, the affidavit  
13 of Cecil Raymond Farley.

14 MR. SASAGAWA: If the Tribunal please,  
15 SASAGAWA on behalf of the defendant ITAGAKI.

16 First of all, I object to the introduction  
17 of this document as the affiant is not produced for  
18 cross-examination. I do not think it is necessary  
19 for me to deal with the necessity of production of  
20 such witness as the Tribunal has on many occasions  
21 asked production of the witness unless upon reasonable  
22 grounds. This affidavit is produced for the purpose  
23 of rebutting the Red Cross Representative's report on  
24 Korean Camp -- POW camps, which report the Tribunal  
25 will remember fully set out conditions and treatment

1 afforded to POW's there. But, whereas this affidavit  
2 is supposed to rebut the detailed good conditions of  
3 the POW Camps in hearsay and in very short and vague  
4 terms of poor conditions, the Court will see in  
5 paragraph five, the latter part, "Apparently in the  
6 short space of time while the interview lasted they  
7 were able to impress upon the representative the poor  
8 condition of the prisoners." That is the only word  
9 appearing rebutting the Red Cross report.

10 Secondly, I object to this document as the  
11 second half of the statement is nothing but hearsay  
12 of third or fourth degree remote.

13 Thirdly, I object to the introduction of  
14 this affidavit. He states the conditions and treat-  
15 ment in very general terms, and no concrete evidence --  
16 this part I have already said; but no concrete evi-  
17 dence to impeach the report of the Red Cross Repre-  
18 sentative, which is exhibit 3308.

19 Another ground of objection is paragraph six  
20 which is entirely repetitive as the penalty imposed  
21 on some POW's who attempted to escape is made clear  
22 by prosecution's exhibit 1998, transcript 14,687.

23 On these grounds I object to the intro-  
24 duction of this document.

25 THE PRESIDENT: Do you wish to be heard



further? You have had a lot to say already, Colonel.

COLONEL MORNANE: Yes, with regard to one matter where I think my friend may have unintentionally misled the Tribunal. He refers to exhibit 3308 which refers to the visit to the prisoner of war camp in 1942, not to 1943, and there is no detailed Red Cross report covering the visit of 1943.

MR. SASAGAWA: The Court will -- may I speak?

THE PRESIDENT: What do you want to say?

MR. SASAGAWA: I was going to say that there is a report of 1943 about the visit to the camp in Korea, and there the prisoners clearly stated that conditions are very good and they are very thankful to the camp commandant. And that is 3309, sir.

THE PRESIDENT: By a majority, the objections are overruled and the document admitted on the usual terms.

CLERK OF THE COURT: Prosecution document 3176 will receive exhibit No. 3844.

(Whereupon, the document above referred to was marked prosecution exhibit No. 3844 and received in evidence.)

THE PRESIDENT: I think we all fear we are spending a lot of time on what may be classed as rag

1 ends.

2 We will recess for fifteen minutes.

3 (Whereupon, at 1445, a recess was  
4 taken until 1500, after which the proceed-  
5 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: The Tribunal, by a majority,  
4 has decided that it is not necessary to call the  
5 witness YOSHIDA for further re-examination. We do  
6 not think that the matter is of sufficient importance  
7 to warrant that course.

8 MR. FURNESS: I assume your Honor means for  
9 cross-examination.

10 THE PRESIDENT: That is right. I said that,  
11 for further cross-examination.

12 Colonel Mornane.

13 COLONEL MORNANE: I propose to read paragraph  
14 5 of this exhibit if the Court pleases:

15 "I remember another incident which happened  
16 on or about the 15th November 1943 when a representa-  
17 tive of the International Red Cross made a visit to  
18 Jinsen Camp. We all had some knowledge of the pro-  
19 posed visit from information gained by the prisoners  
20 from various sources and also from the hasty efforts  
21 of the Japanese to make the Camp look a little more  
22 presentable than it usually was. The representative  
23 duly arrived -- he was not a Japanese -- and was shown  
24 around the camp. The Camp Commandant called up Major  
25 Holohan, Captain MacGillivray and Warrant Officer Clapp

1 (all persons from an English regiment) to interview  
2 the Red Cross representative in the Japanese lines.  
3 As representatives of the prisoners these officers had  
4 a long list of complaints which they intended to place  
5 before the Red Cross representative if possible but  
6 after being taken to the interview they were prevented  
7 by the Japanese in charge from saying anything more  
8 than a few words and the interview closed very abruptly  
9 as far as they were concerned. Apparently in the short  
10 space of time while the interview lasted they were able  
11 to impress upon the representative the poor condition  
12 of the prisoners. Two days afterwards the three  
13 prisoners above were summoned to the Japanese lines  
14 to appear before OKAZAKI the Camp Commandant. He  
15 charged them with making untrue statements to the Red  
16 Cross representative and then sentenced them with terms  
17 of solitary confinement as follows:

18 Major Holohan 10 days

19 Captain MacGillivray and Warrant Officer

20 Clapp 2 days each."

21 Colonel Woolworth will now follow, if the  
22 Tribunal please.

23 THE PRESIDENT: Colonel Woolworth.

24 MR. WOOLWORTH: If the Tribunal please:

25 Prosecution offers in rebuttal IPS document



3337 which is entitled "Matter relating to the  
Establishment of an Office Concerning Japanese Resid-  
ing in Enemy Countries and Enemy Nationals Residing  
in Japan." The attached certificate of HAYASHI,  
Keoru, Chief of Archives Section of the Foreign  
Ministry shows this office in the Foreign Ministry  
was established through the sanction of 14 November  
1942 and began its duties 1 December 1942.

This document implements Article I of the  
Imperial Ordinance relating to the organization of  
the Foreign Ministry, exhibit 76. Paragraphs 3 and  
4 of the document and paragraph 3 of "Data" accompa-  
nying same show the duties and responsibility of this  
office of the Foreign Ministry concerning Enemy  
Nationals held by Japan as Internees and Prisoners  
of War.

This regulation contradicts the testimony of  
TOGO, who stated that no responsibility for the manage-  
ment of prisoners of war accrues to Foreign Ministry  
and that it was only a channel of communication,  
transcript pages 35,768 to 9 and 35,771.

It further contradicts the testimony of  
SUZUKI, Tadekatsu elicited on cross-examination by  
counsel for SHIGEMITSU, Mamoru, in which he stated there  
was no authority in the Foreign Office in connection

1 with prisoners of war, aside from conducting corres-  
2 pondence, transcript 15,530.

3 THE PRESIDENT: Major Furness.

4 MR. FURNESS: If the Court please, the defense  
5 objects to the admission of this document and of the  
6 certificates attached thereto. It is on its face a  
7 draft. I call attention to the first word of the  
8 title which I believe was omitted in referring to the  
9 document by the learned prosecutor.

10 THE PRESIDENT: It also states it was approved  
11 on November 14, 1942.

12 MR. FURNESS: It does not. It has on its  
13 face "draft," and the "approved" applies to the draft.

14 THE PRESIDENT: It also has that on its face  
15 on the same sheet that it has "draft," approved on  
16 that date and the certificate bears that out.

17 MR. FURNESS: If your Honor will allow me  
18 to --

19 THE PRESIDENT: We are wasting a lot of time  
20 on very small objections which cannot succeed eventually.

21 MR. FURNESS: It appears it was only approved  
22 and drafted by the Chief of the Second Section of the  
23 Treaties Bureau. The certificate which is attached  
24 I assume is a substitute for the certificate which was  
25 originally attached. It says merely it was approved by



1 higher office. It does not appear at all what that  
2 higher office was. It does not appear that any sanction  
3 was given. The certificate which says it began its  
4 duties is not a certificate as to document; it is  
5 a certificate as to fact and is not proper in this  
6 form in any way.

7 HAYASHI was not Chief of the Archives Section  
8 on 14 November 1942 as appears from his testimony on  
9 record 22,780. This is in no sense a regulation as  
10 referred to by the prosecutor. It is merely a draft  
11 and does not set up what the functions of this bureau  
12 eventually were. I submit it cannot be accepted  
13 as proof to rebut any testimony of SUZUKI who was  
14 called as a witness by the prosecution, who was not  
15 asked any questions on redirect and whose testimony  
16 was characterized by the President of the Tribunal  
17 as most important. He, himself, testified that the  
18 bureau -- the name of his bureau was Bureau in Charge  
19 of Japanese Nationals in Enemy Countries. That  
20 testimony was not on cross-examination but on direct  
21 examination, reference record 12,830.

22 The third page indicates that on November 14,  
23 the date to which the learned prosecutor has referred,  
24 it had never been referred to the cabinet at all and  
25 I submit that it is in no way admissible, that it

1 has no probative value, and, since it has no probative  
2 value, is not important.

3 I refer to the date on page 3, November 19,  
4 1942, which is subsequent to the date on page 1,  
5 April 14, which says "approved" -- November 14. I  
6 submit that it cannot be alleged on that that it  
7 was approved by any higher authority than the Chief  
8 of the Second Section of the Treaties Bureau on  
9 November 14, 1942.

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1           MR. WOOLWORTH: If the Tribunal please, there  
2 is no allegation that this regulation was approved  
3 by the Cabinet. I think it was distinctly stated by  
4 the witness SUZUKI, Tadakatsu, that he was in charge  
5 of the office concerning Japanese residing in enemy  
6 countries and enemy nationals residing in Japan. Fur-  
7 thermore, he testified that he functioned as chief of  
8 such bureau and it had been a bureau not before in  
9 existence.

10           Furthermore, the approval of this regulation  
11 was not essential by the Cabinet. It is a matter with-  
12 in the jurisdiction of the Foreign Office, a matter  
13 which had formerly been handled by the Treaties Bureau  
14 as appears from the evidence in the case.

15           MR. FURNESS: I must, if your Honor please,  
16 correct one misstatement of the record by the prosecu-  
17 tor. I refer to page 12,830 in which SUZUKI testified  
18 that, I quote "The correct name of the bureau over  
19 which I presided was the 'Bureau in Charge of Japanese  
20 Nationals in Enemy Countries.'" And I wish to state  
21 definitely that that is the only testimony that he  
22 gave regarding the name of his bureau, and I have  
23 checked the record.

24           THE PRESIDENT: By a majority the objection is  
25 overruled and the document admitted on the usual terms.

CLERK OF THE COURT: Prosecution document 3337  
will receive exhibit No. 3845.

(Whereupon, the document above referred to was marked prosecution exhibit No. 3845 and received in evidence.)

THE PRESIDENT: You are not going to read it all, are you, Colonel?

MR. WOOLWORTH: "Drafted: November 12, 1942  
Approved: November 14, 1942 Section 2 of the Treaties Bureau."

I will read the first paragraph and part of section 1 and part of the data.

"In the present Greater East Asia War, the Foreign Ministry finds it necessary to ensure the protection of Japanese interned in enemy countries and also make the world aware of Japan's moral principles by treating the enemy nationals under our jurisdiction and control in a fair and just manner. Since the treatment of Japanese nationals interned in enemy countries and the treatment accorded enemy nationals under our jurisdiction have an inseparable and close relationship, it is necessary that matters relating to the above, which are now being dealt with by various bureaus and sections, be unified and dealt with in a comprehensive manner. Therefore, it is requested that



1 a new office be established under the direct jurisdic-  
2 tion of the Vice Minister, and composed mainly of  
3 repatriated diplomats; and have this office deal with  
4 the aforementioned matter.

5 "We hereby request your approval.

6 "I. Work to be handled by the new office.  
7 (Full liaison shall be maintained with bureaus and  
8 sections concerned.)"

9 I turn to sub-paragraph 3 of section 1 on  
10 page .

11 "(3) Matters relating to enemy nationals  
12 who are internees, prisoners of war, or interned in  
13 concentration camps under Japanese jurisdiction.

14 "Looks after business related to the treatment  
15 (clothes, food, living quarters, inquiries and answers  
16 as to safety, communication of the 'list' (T.N. of their  
17 names), appointment of, and calls on, the nation re-  
18 presenting their interests and the delegation of  
19 the International Committee of Red Cross, communications,  
20 relief, labor, punishment, repatriation, etc.) of  
21 the above-mentioned enemy nationals. Among the above-  
22 mentioned business shall be included, replying to pro-  
23 posals from enemy countries and other sources.

24 "(4) In dealing with the above-mentioned  
25 business, shall handle negotiations with and guidance

1 to the interest-protecting power, International Com-  
2 mittee of the Red Cross or Vatican, and to give guid-  
3 ance to relief bodies at home and abroad."

4 I turn now to page 3.

5 "Data for Explaining at Cabinet Meeting  
6 re Interned and Prisoner of War Duties (November 19,  
7 1942 'JO'-2)

8 "The Foreign Ministry has, with Minister  
9 SUZUKI who returned recently to Japan from Egypt and  
10 who has been ordered to engage temporarily in Foreign  
11 Ministry duties - as their chief, arranged to have  
12 several diplomats and consulate members, who have re-  
13 turned to Japan from enemy countries, engage in the  
14 following duties, maintaining liaison with the Bureaus  
15 and Sections concerned:

16 "1) Duties regarding investigations and  
17 improvement of the conditions of Japanese held as  
18 internees, concentration camp internees or prisoners  
19 of war in enemy countries."

20 I turn to paragraph 3.

21 "3) Business relative to the prisoners of  
22 war, internees or enemy countries' nationals who are  
23 now in concentration camps as internees within the  
24 influence of Japan.

25 "Business will be handled pertaining to the



1 to the interest-protecting power, International Com-  
2 mittee of the Red Cross or Vatican, and to give guid-  
3 ance to relief bodies at home and abroad."

4 I turn now to page 3.

5 "Data for Explaining at Cabinet Meeting  
6 re Interned and Prisoner of War Duties (November 19,  
7 1942 'JO'-2)

8 "The Foreign Ministry has, with Minister  
9 SUZUKI who returned recently to Japan from Egypt and  
10 who has been ordered to engage temporarily in Foreign  
11 Ministry duties - as their chief, arranged to have  
12 several diplomats and consulate members, who have re-  
13 turned to Japan from enemy countries, engage in the  
14 following duties, maintaining liaison with the Bureaus  
15 and Sections concerned:

16 "1) Duties regarding investigations and  
17 improvement of the conditions of Japanese held as  
18 internees, concentration camp internees or prisoners  
19 of war in enemy countries."

20 I turn to paragraph 3.

21 "3) Business relative to the prisoners of  
22 war, internees or enemy countries' nationals who are  
23 now in concentration camps as internees within the  
24 influence of Japan.

25 "Business will be handled pertaining to the

1 treatment of enemy nationals, the visit by the represen-  
2 tatives of the interest-protecting powers or by the  
3 members of the Red Cross Society's International Com-  
4 mittee, shipments from enemy countries of relief sup-  
5 plies and remittance of money, inquiry and information  
6 as to the status of the persons affected.

7 "The above business includes such jobs as  
8 dealing with protests or any other representations that  
9 may be submitted by enemy countries and others."

10 The prosecution offers in rebuttal IPS docu-  
11 ment No. 3356, which is excerpt from the interrogation  
12 of HASHIMOTO, Kingoro, of 17 January 1946, which con-  
13 tradicts the testimony of defendant HASHIMOTO as to  
14 the shelling of the British ship "Ladybird," appearing  
15 at transcript page 28,796, wherein he stated the  
16 shelling of the "Ladybird" was by mistake and the  
17 testimony of defense witness OBATA, Minoru, appearing  
18 in transcript at pages 28,769-70, wherein he quoted  
19 a different order from Lieutenant General YANAGAWA,  
20 and stated the shelling started before dawn.

21 MR. HAYASHI: HAYASHI, representing the  
22 accused HASHIMOTO.

23 I object to this document. The contents of  
24 this document are practically similar to those put in  
25 in court exhibit 258, transcript page 3,466. It



1 contains no facts which may rebut the numerous evi-  
2 dence which has been produced in this Court heretofore.  
3 It is unnecessarily repetitive, and I object to its  
4 presentation.

5 MR. WOOLWORTH: If the Tribunal please, I  
6 admit that parts of this document are repetitive,  
7 but in order to complete the continuity I had repro-  
8 duced the whole of his answer instead of just part of  
9 it which bore the number exhibit 258. The part which  
10 was omitted in 258 contradicts the testimony of the  
11 witness OBATA in important details and contradicts the  
12 testimony of HASHIMOTO on his direct examination.  
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1 THE PRESIDENT: What does it contain that is  
2 new and important?

3 MR. WOOLWORTH: It contains answers to  
4 interrogatories given by HASHIMOTO under oath on the  
5 17th of January, 1946, which contradicts his own  
6 statement on direct examination that the shelling  
7 was by mistake.

8 THE PRESIDENT: Did you tender his interro-  
9 gation in chief? How did you come to omit that?

10 MR. WOOLWORTH: I was cutting down on the  
11 amount of testimony which was introduced in order to  
12 save time, and I thought that could well be left out.  
13 I didn't expect contradiction.

14 THE PRESIDENT: It may be this is already in  
15 evidence. It appears in a summary of the evidence  
16 made for the Judges by some of the staff, and they do  
17 not take anything outside of the evidence.

18 MR. WOOLWORTH: The only part which is in  
19 evidence, if your Honor please, is the answer down to  
20 the word "nationality" in the 5th line. I am perfectly  
21 willing to omit that in the reading of the document.

22 THE PRESIDENT: That part is in the summary,  
23 certainly, but as to the balance I am not so sure.

24 MR. HAYASHI: Mr. President, may I be heard?  
25 On a perusal of IPS document 3356, which is



1 now being presented to the Court, I find the follow-  
2 ing words. It says: "... it turned out to be the  
3 British gun-boat, 'Ladybird.'" This shows that the  
4 bombardment of the vessel was a mistake. Moreover,  
5 that the bombing of Ladybird, that the shelling of  
6 Ladybird was due to heavy fog is made clear in the  
7 various documents exchanged between the Japanese and  
8 British governments, which were made exhibits in  
9 this Tribunal. Therefore, I find that the presentation  
10 of this document is unnecessarily repetitious.

11 THE PRESIDENT: No, he says the fog lifted,  
12 according to this, before he fired. That is the  
13 point.

14 MR. HAYASHI: Where it says the fog lifted  
15 means that because the fog had lifted slightly he  
16 was barely able to see the surface of the river, and  
17 therefore when the Ladybird approached his vision he  
18 found that it was an English boat.

19 THE PRESIDENT: By a majority the objection  
20 is overruled and the document admitted on the usual  
21 terms.

22 CLERK OF THE COURT: Prosecution document  
23 3356 will receive exhibit No. 3846.

24 (Whereupon, the document above  
25 referred to was marked prosecution exhibit

No. 3846 and received in evidence.)

1 MR. WOOLWORTH: (Reading)

2 "Excerpt from Interrogation of HASHIMOTO,  
3 Kingoro, 17 January 1946.

4 "Q Under whose orders did you act when you  
5 shelled the Ladybird?"

6 Omitting the first sentence:

7 "A . . . I believe these orders were issued two  
8 days before the fall of Nanking. I believe that was  
9 about the 10th of December 1937. Those orders were  
10 received about 0200 when I was about 5 or 6 kilos  
11 downstream from Wuhu. Having received the orders  
12 I returned to Wuhu and prepared my guns. The next  
13 morning the river was heavily fog bound and when the  
14 fog lifted at about 1000 I noticed four ships were  
15 in the stream, three of which were gray and one ship  
16 was painted white. I immediately started shelling  
17 them and the three gray ships fled downstream. The  
18 white ship came towards our position and it turned out  
19 to be the British gun-boat, 'Ladybird.' The other  
20 three were Chinese ships which had been landing  
21 troops on the shore."

22 I will omit the last sentence.

23 That completes the rebuttal. Mr. Oneto will  
24 address the Court.  
25



THE PRESIDENT: Mr. Oneto.

1 MR. ONETO: May it please the Court, reference  
2 is made now to order of list No. 11-A.

3 I offer in evidence IPS document No. 3360.  
4 This is a telegram dated 8 August 1940, sent from  
5 Wiesbaden, seat of the Armistice Commission, by  
6 Hencke to the German Foreign Ministry. It refers to  
7 a communication from the French General Huntziger to  
8 General Stuelpnagel.  
9

10 This document is offered to rebut the  
11 statement of the accused TOJO, relating to the  
12 stationing of troops in North French Indo-China, that  
13 the two aspects of the southern policy, determined  
14 on 27 July 1940, "were intended to be attained  
15 through peaceful means until pressure from America,  
16 Britain and the Netherlands, against Japan, resulted  
17 in unforeseen practical developments." Transcript  
18 36,197 to 36,198.

19 MR. BLEWETT: If the Tribunal please, this  
20 document purports to be a diplomatic German opinion  
21 before the negotiations were concluded, and we submit  
22 that the evidence is irrelevant and immaterial, in  
23 view of the fact that the executed MATSUOKA-Henry  
24 Agreement of 30 August 1940 is in evidence as exhibit  
25 618-A, particularly the attached document 10-1 and 10-2,

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25 618-A, particularly the attached document 10-1 and 10-2,



1 as well as all preliminary negotiations pertaining  
2 thereto.

3 We also submit, if your Honors please, that  
4 this document adds nothing new or important to the  
5 case, and it simply reopens the general phase.

6 THE PRESIDENT: By a majority the objection  
7 is overruled and the document admitted on the usual  
8 terms.

9 CLERK OF THE COURT: Prosecution document  
10 3360 will receive exhibit No. 3847.

11 (Whereupon, the document above  
12 referred to was marked prosecution exhibit  
13 No. 3847 and received in evidence.)  
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MR. ONETO: I now read exhibit No. 3847.

1 "Telegram. Open. wie Sbaden, 8 August 1940,  
2 1730. Arrival: 8 August 1940, 1745. No. 114, Secret.

3 "With reference to today's long-distance  
4 telephone conversation with Legation Secretary Grote  
5 Cipher.

6 "1. /I/ reproduce below the strictly con-  
7 fidential wording of the report of General Von  
8 Stuelpnagel to the OKW /Oberkommando der Wehrmacht  
9 'High Command of the Armed Forces'/ on his conversa-  
10 tion with General Huntziger concerning the Japanese  
11 demand of right of way through Indo-China:  
12

13 General Huntziger made the following oral  
14 report to General Von Stuelpnagel on his /General  
15 Huntziger's/ return from Vichy on the evening of  
16 August 7:

17 "On 1 or 2 August the Japanese Government  
18 dispatched a note to the Governor-General of French  
19 Indo-China in which it was demanded that the French  
20 Government should grant the Japanese in Tongking all  
21 the requisit facilities for their waging of war against  
22 China. In the first place /TN: all underlining in  
23 pencil in the original photostat/ the Japanese wished  
24 to have the Haiphong-Yunnan Railway placed at their  
25 disposal for troop transport to Southwest China in



1 order to be able to carry out the shutting off of  
2 Chungking from the southwest. The Japanese demand was  
3 in ultimative form, but without a time limit. In case  
4 of rejection Japan reserved for herself further measures.

5 "The French Government on 3 August ordered  
6 the Governor-General in Indo-China to reply to the  
7 Japanese that the Japanese demand meant a violation  
8 of French sovereignty. The French Government had given  
9 no grounds for this, since it had already stopped the  
10 arms traffic through Tongking to China some eight or  
11 nine months earlier. The French Government could  
12 therefore in no case meet the Japanese demand in this  
13 form. Eventual concessions could only be made on the  
14 basis of free agreement with Japan. The sovereignty  
15 of the French colonial empire must, however, in no  
16 manner be infringed thereby.

17 "General Huntziger stated that the French  
18 Government had informed the U.S.A. of these events.  
19 He had the further request to make that the German  
20 Government communicate the French point of view to the  
21 Japanese Embassy, since neither the French Government  
22 nor the Japanese Embassy in Vichy had an unobjectionable  
23 connection to Tokyo. The French Government was of the  
24 opinion that on the basis of the armistice agreement  
25 the German Government must have an interest in having

1 no new warlike complications develop in the French  
2 colonial empire. They would, however, be unavoidable  
3 in case of a Japanese move by force against French  
4 Tongking. General Huntziger remarked in this con-  
5 nection that it must surely be in general European  
6 interest to prevent a further push-back of the  
7 influence of the white race in East Asia.

8 "No position was taken by General Von  
9 Stuelpnagel vis-a-vis these statements. It was  
10 promised, however, to transmit them to the German  
11 Government. /TN: There is an illegible initial in  
12 the upper right-hand corner of the first page. The  
13 frame numbers are 147568 and 147569. At the bottom  
14 of page 1 appears the filing notation Fr (V). The  
15 following distribution appears in the lower left-hand  
16 corner of the first page.

17 "Hencke."

18 I will now offer in evidence three documents.  
19 They will be tendered separately, but I shall give  
20 the explanation concerning all of them together.

21 These three documents are offered to contra-  
22 dict the declarations of the accused TOJO, I quote:

23 "It is true that Japan requested the good  
24 offices of the German Government in the negotiations  
25 with the French Government but the German Foreign



Minister refused that request. Hence the charges made in the Indictment that pressure was brought to bear on the French through the use of the Germans are not supported by the facts." Transcript page 36252.

I tender IPS document No. 3364. It is a German telegram sent on 23 February 1941 by Rintelen, member of the Secretariat of Foreign Minister von Ribbentrop, transcript page 34,071, to the German representative in Paris. It sets forth the use made by Japan of Germany in the conflict between Thailand and French Indo-China.

MR. BLEWETT: If the Tribunal please, we submit that the associate French prosecutor put all this evidence in the record heretofore in the general phase, and in addition to exhibit 618-A, this whole proceeding in so far as this mediation is concerned is covered in exhibits 633 and 637. We submit that this evidence adds nothing new to the case whatsoever.

THE PRESIDENT: Have you anything to add?

MR. ONETO: No, sir.

THE PRESIDENT: Mr. Blewett alleged it is already in evidence. Do you deny it?

MR. ONETO: It is true that a certain number of documents have been tendered to this effect. But the accused TOJO formerly contradicted the assertion

1 that the German Government had been used by the  
2 Japanese Government to exert pressure on the French  
3 Government in the conflict between Thailand and  
4 French Indo-China. Further, no document tendered up  
5 to now is as categorical as the first one which I am  
6 now tendering.

7 THE PRESIDENT: By a majority the objection  
8 is overruled and the document admitted on the usual  
9 terms.

10 CLERK OF THE COURT: Prosecution document  
11 3364 will receive exhibit No. 3848.

12 (Whereupon, the document above  
13 referred to was marked prosecution exhibit  
14 No. 3848 and received in evidence.)

15 MR. ONETO: I now read IPS document No. 3364,  
16 exhibit No. 3848:

17 "Telegram (open). Special Train Heinrich,  
18 23 February 1941, 1915 hours. Arrival: 23 February  
19 1941, 1935 hours. 89 No. 23/2. Most Urgent!

20 "Note: Relayed to Paris Embassy with  
21 No. 626, 23 February '41, 1955 hours.

22 "The German Foreign Minister requests you  
23 to get in touch with Ambassador de Brinon or Darlan  
24 and to transmit the following communication to him.  
25 The Japanese Government has communicated to the German



1 Government its offer of mediation in the territorial  
2 conflict between Thailand and Indo-China with the  
3 request to use its influence with the French Govern-  
4 ment for the acceptance of this offer. The German  
5 Government points out the dangers which threaten  
6 France in the event of the non-renewal of the armistice  
7 expiring 25 February. It considers it as being in  
8 the French interest, therefore, to accept the offer  
9 of mediation.

10 "The German Foreign Minister requests you  
11 to get in touch with him by telephone again directly  
12 upon receipt of this teletype but before carrying out  
13 delivery of the communication to de Brinon.

14 "Fuschl, 23 February 1941.

15 "Rintelen."

16 I offer in evidence IPS document No. 3363.  
17 It is a telegram dated 1 March 1941, sent by Schleier  
18 to the German Foreign Minister. For the benefit of  
19 the Court, I will add that Schleier was stationed in  
20 Paris as Charge d'Affaires with the rank of Minister.  
21 This is at transcript page 34,072.

22 This telegram is the sequel to the interven-  
23 tion of Germany, as was set forth by the last tele-  
24 gram, document 3364, exhibit 3848, previously tendered  
25 in evidence. It shows the influence of the Government

of the Reich in this matter.

1           It appears in the document itself that this  
2           communication was submitted to the German Foreign  
3           Minister Ribbentrop by a member of his bureau,  
4           Dr. Schwarzmann.

5           I must add that I will only read a part of  
6           this document. The second page will be mostly left  
7           unread.

8           MR. CUNNINGHAM: May it please the Tribunal,  
9           I object to this document. It does not direct itself  
10          to any particular defendant's case. It is only a  
11          general issue matter, and it does not rebut any evi-  
12          dence and does not throw any light on any of the issues;  
13          and it is contradictory to the next document that is  
14          coming up and certainly has no probative value.

15          THE PRESIDENT: By a majority the objection  
16          is overruled, and the document admitted on the usual  
17          terms.  
18

19          CLERK OF THE COURT: Prosecution document  
20          3363 will receive exhibit No. 3849.

21                 (Whereupon, the document above  
22                 referred to was marked prosecution exhibit  
23                 No. 3849 and received in evidence.)

24          THE PRESIDENT: How much are you going to  
25          read? A couple of lines? Are you going to read



1 much?

2 MR. ONETO: I intend to read the first page  
3 of this document.

4 THE PRESIDENT: We will adjourn until half-  
5 past nine on Monday morning.

6 (Whereupon, at 1600, an adjournment  
7 was taken until Monday, 26 January 1948, at  
8 0930.)

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